

Results of Redetermination Pursuant to
Trade Associates Group, Ltd. v. United States
Court No. 11-00397 Slip Op. 14-11
(CIT January 31, 2014)

A. SUMMARY

The Department of Commerce (“Department”) prepared these results of redetermination pursuant to the remand order of the U.S. Court of International Trade (“CIT” or the “Court”) in Trade Associates Group, Ltd. v. United States, Court No. 11-00397, Slip Op. 14-11 (CIT January 31, 2014) (“Remand Opinion and Order”). These remand results concern the Final Scope Ruling: Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China, dated August 5, 2011 (“Final Scope Ruling”). In its Remand Opinion and Order, the Court finds unreasonable the Department’s interpretation of the scope as ambiguous and including all petroleum wax candles except birthday and birthday numeral candles, utility candles, and figurine candles.¹ As set forth in detail below, in these results, pursuant to the Court’s Remand Opinion and Order, we reconsider our determination.

On April 16, 2014, the Department released the draft results of redetermination to interested parties for comment. On April 29, 2014, the National Candle Association (“NCA”) submitted comments.² On April 30, 2014, Trade Associates Group (“TAG”) submitted comments.³

¹ See Remand Opinion and Order, at 2, 10-11, 29.

² See Letter to the Department, from NCA, Re: Comments on Draft Remand Determination in the Final Scope Ruling, dated April 29, 2014 (“NCA Draft Comments”).

³ See Letter to the Department, from TAG, Re: Trade Associate Group Ltd.’s Comments on Draft Remand Determination in Final Scope Ruling, dated April 30, 2014 (“TAG’s Draft Comments”).

B. BACKGROUND

On August 5, 2011, the Department issued its final scope ruling regarding candles imported by TAG.⁴ The Department determined, based on a detailed analysis of the candles in question, that the candles corresponding to 242 of the 269 submitted product numbers are covered by the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China.⁵ On January 31, 2014, the Court remanded the determination and stated that the Department must make a new scope ruling that complies with the CIT's Remand Opinion and Order and rests upon a reasonable interpretation of the scope. The Court found that the Department's interpretation of the scope language is unreasonable. The Court stated that the scope language consists of two sentences, and these two sentences read together "cannot reasonably be interpreted to include generally candles of any shape," because the first sentence includes the word "certain" and the second sentence lists various shapes in which candles "are sold."⁶ However, the Court stated that the second sentence of the scope may be construed "as listing examples of the common candles shapes that the Order includes," but the Court determined that it "need not decide, and does not decide whether the second sentence of the scope language at issue in this case expressly limits the scope of the Order to the specified candle shapes and types."⁷ The Court concluded only that the scope language is not ambiguous in a way that makes it reasonably susceptible to the Department's construction that the scope includes candles in the shapes of TAG's identifiable objects.⁸ The Court stated that, even if the

⁴ See Final Scope Ruling: Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China ("PRC"), dated August 5, 2011 ("Final Scope Ruling").

⁵ See Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China, 51 FR 30686 (August 28, 1986) ("Order").

⁶ See Remand Opinion and Order, at 11-12, 25-27.

⁷ See id., at 21.

⁸ See id.

second sentence were illustrative, it only includes the listed shapes and additional candles that are in “common candle shapes as illustrated by the terms of the second sentence.”⁹

C. ANALYSIS

This Order has been in place since 1986, and from the outset, parties have filed numerous scope requests, causing the Department to seek to provide greater clarity to the public regarding the meaning of the scope language. Prompted largely by TAG’s scope request covering 269 candles, the Department issued the 2011 scope clarification, which we then applied to TAG’s request.¹⁰ The goal was to provide parties greater certainty and to reduce the administrative burden on the Department in order to enforce the Order.

The Court has remanded the Final Scope Ruling with respect to TAG’s candles. The Department respectfully disagrees with the Court’s Remand Opinion and Order and is conducting this remand under protest.¹¹

In conducting this remand, we first compare each candle at issue in this remand to the list of shapes and types in the second sentence of the scope language. These shapes and types are: tapers; spirals; straight-sided dinner candles; rounds; columns; pillars; votives; and various wax-filled containers. We note that these shapes and types are not defined in the scope of the Order. Moreover, we examined the shape of each candle and conducted a comparison irrespective of any decorations on the candle because the scope language does not speak to decorations. We previously defined decorations for purposes of this Order as “etchings, prints, moldings, or other artistic or decorative enhancements including any holiday-related art.”¹² Such decorations do

⁹ See id.

¹⁰ See Final Scope Ruling at 4.

¹¹ See Viraj Group Ltd. v. United States, 343 F.3d 1371 (Fed. Cir. 2003).

¹² See Petroleum Wax Candles From the People's Republic of China: Preliminary Results of Request for Comments on the Scope of the Petroleum Wax Candles From the People's Republic of China Antidumping Duty Order, 75 FR 49475 (August 13, 2010).

not change the fundamental shape or type of a candle, any more than a particular color or weight or texture would. Accordingly, we find it reasonable to interpret the second sentence of the scope of the Order to include the candles of certain shapes and types regardless of any decorations. If the candle is in one of the shapes or types included in the scope language, we conclude that the candle is covered by the scope.

Furthermore, we find that the list of shapes and types in the second sentence of the scope of the Order is illustrative, because it does not specify that only those specifically enumerated are covered by the scope language. As the Court notes, the second sentence of the scope may be construed “as listing examples of the common candle shapes that the Order includes.”¹³ We find that construing the second sentence in this manner is reasonable, because the express language of the scope does not state that the scope covers only the shapes or types listed in the second sentence.

Consistent with the Remand Opinion and Order, although we find that the second sentence is illustrative, we are not construing that sentence as including candles that are identifiable objects that are not essentially a common candle shape or type. Rather, we construe that sentence as listing examples of common candle shapes or types.¹⁴ Accordingly, we examined each candle at issue here to determine whether, even if it is not one of the enumerated candle shapes or types in the second sentence, it is a common candle shape or type. In conducting this analysis, we examined whether a particular candle is of a similar shape or type to the ones enumerated. For example, if a candle is in the shape of a cone, we considered that to be a common candle shape or type. This is consistent with the second sentence’s focus on the shape or type (as opposed to other characteristics) of a candle.

¹³ See Remand Opinion and Order at 21.

¹⁴ See id.

D. COMMENTS FROM INTERESTED PARTIES

NCA's Comments

- The Department properly interpreted the Remand Opinion and Order, and the analytical approach outlined by the Department of determining whether each candle is in a shape enumerated by the scope, or if not, whether it is a common candle shape or type, is consistent with the Remand Opinion and Order.
- Although the Department correctly interpreted the scope of the Order, it did not apply the interpretation properly and consistently with respect to several of the candles.
- Several of the candles that the Department found to be out of the scope should be found to be within the scope, as they are common candle shapes when viewed irrespective of decorations. These include pumpkin hat candles, mini cupcake candles, Brussels sprouts candles, various egg and chick candles, gourd candles, and potted tree pinecone candles.
- The Department previously found that tealight candles are wax-filled containers that are in scope. In the final draft remand, the Department should find that the following tealight candles are in scope: snowman tealights, mini ornament tealights, ghost tealights, assorted flower tealights, and bright flower tealights.
- Several of the pear-shaped candles that the Department found to be out of the scope should be found to be within the scope as they are organic rounds, which are similar to the oval shapes that have been found to be within the scope.
- Floating candles are only intended for use within a container or water, and thus are properly included within the scope of the Order as votives.

TAG's Comments

- The Remand Opinion and Order stated that TAG’s candles are “not specifically identified in the second sentence of the scope language” and that “the term ‘common candle shapes’ in no way describes the candles at issue here, each of which is in a unique shape depicting a specific object.” Therefore, the issue is whether the Order can reasonably be interpreted to include TAG’s candles, and not whether the candles are in the listed shapes or “common candle shapes.”
- The Court determined that TAG’s candles are not in the shapes listed in the Order but instead are in the shapes of identifiable objects, and thus are excluded from the scope of the Order.
- Even if the Court had not found that TAG’s candles are in the shape of identifiable objects and hence are excluded from the scope, the candles at issue cannot fall within the scope because they are in the shape of or “made to resemble” identifiable objects.
- Candles in the shapes of cupcakes, pumpkins, gourds, different varieties of apples, and caramel apples, are clearly in the shape of identifiable objects, and are colored and have surface treatments which enhance their realistic appearance, and are excluded from the Order.
- Beach ball candles and Christmas ornament candles, while highly accurate representations of a “round,” are also colored to be an accurate representation of actual beach balls or ornaments, and are therefore are made to resemble an identifiable object. Additionally, the Christmas ornament candles have a round cap on the top side, making them an exact representation of a real Christmas ornament.

- Candles which are either realistic representations of trees, or are made to resemble trees, are in the shape of identifiable objects, based on their shapes alone, and because they bear decorative elements such as strings of lights or ornaments.
- Although the Department stated that it would disregard decorative enhancements in determining whether a candle is in one of the shapes listed in the language of the scope, it did not indicate that such factors would be disregarded when determining whether a candle is in the shape of an identifiable object.
- Colors and the presence of structural features such as noses, eyes, hats, etc., cannot be disregarded in determining whether a candle is “made to resemble” an identifiable object, and the Department’s decision to disregard these key factors is therefore arbitrary and unreasonable.
- The various candy shaped candles (candy corn, peppermint and candy canes, and gum drops), are indistinguishable from their actual counterparts, both in shape and color.
- Because of the large number of candles at issue, TAG’s comments included an attachment which indicated the following comments with regard to each individual candle at issue: 1) “This candle is excluded from the scope of the Order because it is in the shape of an identifiable object;” 2) “This candle does not fall within the Order because it is not in any of the candle shapes listed in the second sentence of the Order’s scope language;” and 3) “The scope of the Order does not include any ‘common candle shapes’ not specifically listed in the second sentence of the Order’s scope language. Moreover, this candle does not fall within the Order because it is not in any ‘common candle shape.’”

- The draft remand did not provide the criteria used by the Department to define the shapes or the criteria used to determine which candles fall within them. Regardless, none of TAG’s candles meet any reasonable definition of the candle shapes listed in the Order.
- The Department previously defined “rounds” as “a candle which is a sphere or a flattened disk in which all points on the candles surface (except for those on its base and top) are approximately equidistant from the candle’s center, and without multiple surface angles or embellishments so prominent that they could not be considered approximately spherical.”¹⁵
- None of the candles that the Department found to be “rounds” in the draft are actually rounds. All of the pumpkin, gourd, apple, cupcake, witch’s cauldron candles, glittered pinecone ball candles, ornament candles, and snowball candles have grooving, bulging, angles, and embellishments which prevent them from being spherical. Additionally, although the beach ball candles are spherical, the Court described these candles as being in the shape of an identifiable object, so it is unreasonable to conclude that these candles are not in the shape of an identifiable object.
- The candles that the Department found to be tapers (e.g., the witch’s hat candle, the ghost taper, etc.) do not fit the definition of a taper as determined by the Department in its previous determinations.¹⁶

¹⁵ See TAG’s Draft Comments at 23, citing Petroleum Wax Candles from the People’s Republic of China: Preliminary Results of Request for Comments on the Scope of the Petroleum Wax Candles from the People’s Republic of China Antidumping Duty Order, 75 FR 49475 (August 13, 2010).

¹⁶ Petroleum Wax Candles from the People’s Republic of China: Preliminary Results of Request for Comments on the Scope of the Petroleum Wax Candles from the People’s Republic of China Antidumping Duty Order, 75 FR at 49480.

- The Department used a faulty analysis in determining that a number of candles with additional embellishments (e.g., heart votives, pumpkin tealights, sweetheart candles, etc.) are votives. None of these candles are generic “votives” because they consist of a pronounced and distinctive shape, supported by a small round base.
- The Order contains no language that can reasonably be interpreted to include candles in shapes other than those specifically listed in the second sentence of the scope language. The word “certain” in the first sentence denotes that not all candles are covered by the order, but only a subset of such candles, and the second sentence clearly and unequivocally limits the candles to the ones listed therein.
- The conclusion of the Department that the second sentence can be read as illustrative and that the scope could also cover candles made in other “common candle shapes” is wholly unreasonable and not supported by the Order. Additionally, the Court’s statement that the second sentence could hypothetically be read as illustrative is not to say that the Court found that the second sentence necessarily is illustrative.
- Even if the second sentence could be considered to be illustrative, the Department’s conclusion that any geometric shape (e.g., triangles, circles, ovals, etc.) is a common candle shape is not supported by record evidence. Further, there is no evidence that candles were commonly made in such shapes at the time of the underlying investigation.
- Even if the Department could reasonably consider other geometric shapes to be “common candle shapes” it has not provided any guidance as to how these shapes should be defined and applied.

Department's Position

As an initial matter, the Department disagrees with TAG that the Remand Opinion and Order definitively determined that all of the candles under consideration are necessarily outside the scope of the Order. We cannot conclude that the Court intended to deprive the Department of the opportunity, on remand, to make a ruling with regard to each of the candles under consideration in a manner consistent with the Court's opinion. Although TAG points to statements included in the Court's opinion that TAG argues indicate that the Court intended for the Department to find all of TAG's candles to be outside the scope of the Order, the Department finds that there are also statements which demonstrate that the Court intended for the Department to interpret the scope in a manner consistent with the Court's opinion and rule on each of the candles at issue, rather than make a sweeping assumption that all candles are outside the scope. For example, the Remand Opinion and Order states that “{b}ecause the scope language of the Order cannot reasonably be interpreted to include *many* of the candles identified in the Scope Ruling Request, the court decides that the Final Scope Ruling is contrary to law and must be remanded to Commerce for reconsideration.”¹⁷ {emphasis added} This statement indicates that there are some candles that can reasonably be considered to be within the scope of the Order. Additionally, the Court stated that

The court need not decide, and does not decide, whether the second sentence of the scope language at issue in this case expressly limits the scope of the Order to the specified candle shapes and types. As the court discussed herein, the second sentence might be construed as expressly limiting the scope, or alternatively, as listing examples of the common candle shapes that the Order includes. However, even under the latter construction, the Order is not reasonably susceptible to an interpretation under which the Order includes candles in the shapes of identifiable objects that are not in common candle shapes.¹⁸

¹⁷ See Remand Opinion and Order, at 12.

¹⁸ See id. at 21.

This indicates that the Court did not intend for the Department automatically to exclude any candle that may be in the shape of an identifiable object from the scope of the Order. Rather, it indicates that a candle in the shape of an identifiable object that is also a common candle shape may be included in the scope of the Order. This makes sense because TAG's argument would result in the exclusion of candle shapes that are expressly listed in the second sentence of the scope, i.e. rounds, pillars, etc., based solely on decorations. Although the Court found that the plain language of the scope could not be interpreted to include all candle shapes, it also stated that the second sentence of the scope may be construed "as listing examples of the common candle shapes that the Order includes."¹⁹ Finally, the Court in its conclusion found that "{i}n placing within the scope of the Order various candles made to resemble identifiable objects, the Final Scope Ruling applied an impermissible interpretation of the scope language in the Order."²⁰ Consistent with the statement quoted above, this statement indicates that only "various" candles in the shape of identifiable objects (i.e., those that are not also in common candles shapes) were impermissibly included within the scope in our original determination. On remand, it is the Department's task to re-evaluate the candles at issue in a manner consistent with the Remand Opinion and Order and the Court's interpretation of the scope language. This is what we have done.

Accordingly, the Department continues to find that the second sentence of the scope language is illustrative, and that, as the Court notes, the second sentence of the scope may be construed "as listing examples of the common candle shapes that the Order includes."²¹ Further, we continue to find that the determination of whether a candle is in a common candle shape should be made without regard for decorations. Such decorations do not change the fundamental

¹⁹ See id. at 21.

²⁰ See id. at 28.

²¹ See id. at 21.

shape or type of a candle, any more than a particular color or weight or texture would. The scope of the Order refers simply to candle shape or type. Therefore, we find that it is appropriate to consider each candle based on its fundamental shape, without regard to decoration, texture, coloring, or weight.

TAG's interpretation of the Remand Opinion and Order would produce an illogical result. For example, under TAG's theory, a perfect round candle ceases to be round simply because a few stripes are painted onto the candle. The Department does not believe that the Court intended such a result and, therefore, disagrees with TAG's argument that the Court foreclosed the opportunity for the Department to rule on TAG's candles based upon the scope language.

We note that TAG argues that the Department did not provide guidance as to what shapes are to be considered common candle shapes, and no guidance regarding the definitions of these shapes. However, as ordered by the Court, the Department is applying the plain language of the scope to each individual candle and endeavoring to ascertain whether each candle is properly covered or not covered by the scope. TAG has made a blanket argument that all of the candles under consideration are in the shape of identifiable objects, not in shapes enumerated by the scope, and are not common candle shapes. Rather than adopting this blanket approach, in the attached chart the Department examined each individual candle to determine its fundamental shape, consistent with the Remand Opinion and Order, and described the reason why each candle falls within the scope or is properly excluded. However, the Department acknowledges the difficulty of complying with the Court's Remand Opinion and Order that the determination of which candles fall within the scope of the Order be made based on a plain reading of the scope, an interpretation which differs from past practice. Below the Department addresses in general

the different types of candle shapes and types, as well as the basis for our determinations, using detailed examples of each shape and type of candle. Because of the large number of candles under consideration, the entirety of the determinations for each of the 269 candles under consideration is included in the attachment.

Rounds and Ovals:

TAG argues that many of the candles which the Department has determined to be rounds, and therefore within the scope of the Order are not actually rounds because they have additional grooving, bulging, angles, and embellishments which prevent them from being spherical.²² For example, TAG argues that the scented snowball candles (product numbers 610509, 610508, 710977, 710979, 610386 and 610388) are “realistic and instantly recognizable” and “possess multiple protrusions, indentations, and ridges . . . that are meant to mimic the irregular surface of a snowball...”²³

However, in examining these candles, the Department finds that the form is more consistent with a round than not. While the surface is textured, it does not detract from the fundamental nature of the candle as a round. On the other hand, in the draft remand, the Department found that certain cupcake candles were rounds, stating that “when viewed irrespective of decorations, this candle is a round.” The Department reconsidered its determination in the draft remand regarding cupcake candles within the context of the Remand Opinion and Order and in consideration of comments from interested parties. Therefore, we are now finding that candles in the shape of cupcakes (product numbers 210003, 210004, 410032, and 510098) are not in a common candle shape and are therefore not covered by the scope of the Order. Specifically, these candles have an irregularly tapering top, and the base is more

²² See TAG’s Draft Comments at 23.

²³ See id. at 26.

significantly flat than would be consistent with a round. Therefore, we find that these cupcake candles are not within the scope of the Order.

Additionally, TAG argues that several other candles, in the shapes of pumpkins,²⁴ gourds, ornaments, beach balls,²⁵ etc. should be found to be outside the scope because they are clearly in the shape of, or made to resemble, identifiable objects.²⁶ In the draft remand, the Department found that all of these candles are within the scope, because when viewed irrespective of decorations, these candles are rounds. We reconsidered each of these candles within the context of the plain language of the scope, the Remand Opinion and Order, and comments from interested parties. Accordingly, we find that some of the above-mentioned candles should be found to be outside the scope of the Order. We agree with TAG that the majority of the pumpkin candles should be found to be outside the scope. This is because there are additional details which serve to differentiate these candles from a round. Specifically, the traditionally shaped pumpkin candles (e.g., product numbers 610583, 710055, 610582, 710003, 610589, 610586, 710022, etc.) have prominent ridges and a relatively greater degree of flatness on the bottom. In contrast, however, the Department examined other “pumpkin” candles (product numbers 610347 and 610405) as well as certain gourd and pumpkin candles (product numbers 710056 and 610581) that are painted in colors traditionally associated with a jack-o-lantern Halloween decoration or a natural pumpkin or gourd, and have a relatively flat bottom, but which do not have the same degree of prominence to their ridges or other characteristics distinguishing them from the fundamental shape of a round as the other pumpkin candles under consideration.

²⁴ The Department notes that certain of the candles which TAG characterized as “pumpkins,” such as product numbers 610347 and 610405, bear very little resemblance to pumpkins in their shape. This underscores that the Department had to examine every candle individually, irrespective of the purported shape or type of object the candle was said to resemble.

²⁵ Additionally, the Department notes that TAG itself stated that these candles are accurate representations of “rounds,” irrespective of coloration. See TAG’s Draft Comments at 26.

²⁶ See id. at 23.

Therefore, when viewed irrespective of decorations, these candles have a fundamental shape which is consistent with a round or oval shape.

The difference between these two groups of “pumpkin” candles highlights the difficulty faced by the Department in attempting to determine which candles are in scope based on a new, plain reading of the scope. Specifically, the Department examined each candle within the plain language of the scope and struggled to identify a straightforward way to determine the essential characteristics of each candle. For example, one aspect we examined was the bottom of these candles, which have various degrees of flatness relative to the rest of the candle, and we attempted to determine at what point, if any, the candle ceases to be fundamentally round in shape. The Department found that a certain number of additional candles which have a relatively flat bottom, which may serve to allow the candle to sit on a flat surface without rolling, but are otherwise round or oval, are properly included in the scope of the Order because their fundamental shape is round (e.g., product numbers 610405, 610347, 711113). Although the Department endeavored to determine these cut off points within the context of this remand and based on the plain language of the scope, the burden of determining at what point the cumulative characteristics of an individual candle results in a fundamental shape that it is no longer a common candle shape is significant. However, there are certain candles which have a relatively flat bottom and also have a relatively flat top (e.g., product numbers 610208 and 610168). The Department finds that these two relatively flat surfaces in combination detract from the fundamental shape of these candles as rounds or ovals, so they are not within the scope of the Order.

Further, the Department continues to find that many of the other candles that TAG argues are in identifiable shapes, such as apples, Christmas ornaments, and beach balls (e.g., product

numbers 4325, 610579, 710000, and 410174, etc.), are rounds, because they do not have additional shaping which detracts from their fundamental nature as a round. In the attached chart the Department identified each candle which it finds should be properly considered a round based on its fundamental shape.

The Department disagrees with NCA that candles which are pear-shaped (e.g., product number 710053) are “organic rounds” and are similar to the apples that the Department determined are within the scope. The fundamental nature of these candles is not consistent with a round or spherical shape. Irrespective of decoration or embellishment, these candles are significantly more bulbous at the bottom, and feature a much narrower shape on the top portion. Moreover, the plain language of the scope, which the Court directed the Department to consider, does not refer to “organic rounds;” the sole reference is to a “round.” Therefore, because the fundamental shape of these candles is not consistent with a common candle shape, they are not covered by the scope of the Order.

Cones:

The Department disagrees with TAG that its finding that tree-shaped candles are within the scope of the Order is unreasonable. The tree candles identified by TAG can be separated into two main groups. One group consists of “tree” candles which consist of straight sided, cone-shaped candles (e.g., 610333, 610546, etc.). There is no other distinguishing characteristic, irrespective of decorations or embellishments, which would identify these candles as being tree-shaped. Therefore, these candles are properly included in the scope of the Order, as they are fundamentally cone shaped. The other group of “tree” candles consists of candles which have a zig-zag pattern of indentations on the sides. Although these candles are formed with indentations suggestive of ascending tree levels, these indentations are not so significant as to

distinguish them from a common candle shape; in this case, a cone. This same analysis can be applied to the “tree” candles which are embellished with rounded balls, or are formed with a spiral design (i.e., product numbers 710057, 690041, and 710975), as well as the Small Whimsy Snowman (product number 610543).²⁷ Although these candles have embellishments and/or indentations, such embellishments and/or indentations are not so significant as to detract from their fundamental shape as a cone with respect to those particular candles.

The Department disagrees with NCA that the Potted Tree Pinecone Candles (product numbers 710067 and 710066) are cones, in contrast to the candles analyzed in the preceding paragraph. Similarly, the Sugared Fruit Tree Candles (product numbers 711133 and 711135) are not cones. Although the tops of these candles have a conical shape, the bottom part of the candle tapers in the opposite direction from the top, and detracts from the fundamental shape of these candles as cones. Additionally, the Department reconsidered its finding in the draft remand regarding certain candles that it described as cones within the context of the plain language of the scope, the Remand Opinion and Order, and comments from interested parties. Specifically, candles such as the Large and Small Onion Candles (product numbers 610588 and 610587) have additional details which serve to differentiate them from a round or a cone. The bottom part of these candles is rounded, and there are significant ridges running vertically around the candle, which detract from the fundamental nature of these candles as cones. Again, the Department attempted to examine each candle within the plain language of the scope and identify a straightforward methodology to determine the essential characteristics of each candle. In identifying which candles are cones, one aspect we examined was whether the candle has a relatively wide base which narrows in a consistent manner to a pointed top, and we attempted to

²⁷ The Department notes that the Large Whimsy Snowman (product number 610541) is a significantly different shape than the Small Whimsy Snowman and is elongated and topped with a flat surface such that it does not have a fundamental cone shape. Therefore, we have made a separate determination with respect to these two candles.

determine at what point variations in shape result in the candle ceasing to be fundamentally conical in shape. This is yet another example of the difficult burden of determining at what point the characteristics of each individual candle detract from its fundamental shape such that it is no longer a common candle shape.

Votives and Wax Filled Containers:

The Department disagrees with TAG that certain candles categorized as votives in the draft remand should be excluded from the scope of the Order because they consist of a pronounced and distinctive shape supported by a small round base (e.g., product numbers 610143, 419936, etc.). However, the Department reconsidered these and other candles within the context of the plain language of the scope, the Remand Opinion and Order, and comments from interested parties. TAG argues that none of these candles can be considered “generic votives.”²⁸ However, the Department determines that these candles are covered by the scope of the Order because they are wax-filled containers, a type of candle that is expressly enumerated in the second sentence of the scope. Therefore, the characteristics that these candles may have in common with a votive are irrelevant to determining whether or not these candles are covered by the scope of the Order.

The Department disagrees with NCA that the Department improperly found that several floating candles are outside the scope of the Order. NCA argues that because floating candles are intended only for use within a container or water, they are in the scope of the Order as votives. The Department agrees with NCA that votives are covered by the scope of the Order; however, the scope does not cover any candles which may be put into a container, regardless of whether that container is filled with water, at a later time. The Remand Opinion and Order instructs the Department to consider each candle within the language of the scope, and

²⁸ See TAG's Draft Comments at 29.

examining the intended use of the candle in a specific type of container does not fall within that direction. Therefore, we continue to determine whether a candle that is identified as a “floating” candle is within the scope of the Order based on its fundamental shape and without regard for whether it is intended to float.

Tapers:

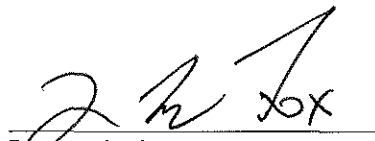
We disagree with TAG that product numbers 610024 and 610025 (ghost taper candles and witch’s hat candles) are not covered by the scope of the Order. TAG argues that these candles are not tall, straight tapers. However, when viewed irrespective of decorations, these candles have no prominent shaping or defining characteristics which detract from their fundamental shape as tapers. Further, TAG argues that these candles are no different from product numbers 610017, 610018 and 610000 (small and large ghost lanterns and ghost tealights). However, in examining these candles irrespective of decorations, product numbers 610017 and 610018 have a much larger circumference in comparison to their height. This, in combination with a rounded top and fluted design around the bottom serve to differentiate these candles from a common candle shape (e.g., a pillar or column). Additionally, product number 610000 is a tealight which is in a container, and is therefore in the scope of the Order as a wax filled container. Additionally, the Whimsy Snowman Taper (product number 610545) is similarly lacking additional shaping when viewed irrespective of decoration and embellishments. These candles are very similar in form and shape to other of TAG’s candles which we categorize as tapers, such as the large and small firecracker candles²⁹ (product numbers 100168 and 100167).

²⁹ We note that even if product numbers 100168 and 100167 are not considered tapers, they would still be found to be within the scope of the Order as straight-sided dinner candles.

As noted above, the Department attempted to examine each candle within the plain language of the scope and identify a straightforward methodology to determine the essential characteristics of each candle. In identifying which candles are tapers, one aspect we examined was whether there is a relatively small circumference compared to the height, and we attempted to determine at what point variations in shape result in the candle ceasing to be fundamentally in the shape of a taper.

E. FINAL RESULTS OF REDETERMINATION

Pursuant to the Court's order, the Department applied the above interpretation to the candles corresponding to the product numbers below and finds that 120³⁰ of the 269 product numbers are covered by the scope. Due to the large number of candles at issue, the Department is providing the results of each candle comparison and determination in an attachment.³¹


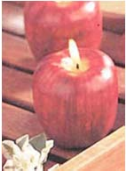




Lynn Fischer Fox
Deputy Assistant Secretary
for Policy and Negotiations

June 16, 2014
Date







³⁰ The Department notes that certain product numbers contain multiple and different candles. For three product numbers we made differing determinations with respect to the candles in those product numbers. However, we included these three product numbers in the total of 120 candles found to be within the scope as we determined that certain candles within those product numbers are covered by the scope language. Those three product numbers are: 100785, 610051, and 711115.





³¹ See Attachment.

Attachment

Sequence Number	Picture	Product No.	Product Name	Decision: In Scope?	Remand Analysis
2		4325	Macintosh Apple Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
3		4225	Red Delicious Apple Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
11		711111	Sugared Harvest Apple	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
15		610579	Harvest Apple Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
175		610400	Floating Mini Apple Candles s/9 - Multi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.

*Listed twice due to split decision

176		610579	Mini Harvest Apple Candles s/12 Dark Red	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
177		610051	Mini Sugared Apples & Pears s/6 White	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape. *
178		100785	Sugared Mini Fruit Candles s/9 - Multi	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape. *
179		711115	Sugared Mini Harvest Candles s/3 - Multi	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape. *
215		510577	Large Zinnia Illuminating Candle - Red	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
216		510579	Large Zinnia Illuminating Candle - Yellow	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.

217		510581	Large Zinnia Illuminating Candle - Kiwi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
218		419996	Mini Floating Zinnia Candle s/3 - Multi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
254		710977	Large Scented Snowball Candle - White	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
255		710979	Small Scented Snowball Candles s/9 - white	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
256		610386	Small Snowball Candles s/4 - White	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
257		610388	Large Snowball Candle - White	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.





266		710065	Glittered Pinecone Ball Candle - Multi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
269		711139	Lg Sugared Fruit Ball Candle - Multi	yes	whether viewed as a compliation of rounds of an overall shape of a round it is a common shape
10		710056	Gourd Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
14		610581	Tall Orange Pumpkin	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
194		371429	Gourd Candle - Multi	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
60		610347	Large pumpkin Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.

62		610405	Small Pumpkin Candle	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
80		710971	Gumdrop Candles	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
85		200023	Large Chocolate Egg Candles	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
89		710071	Caramel Apple Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
24		610544	Snowman Tealights	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
25		710028	Mini Ornament Tealights	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.

73		610143	Heart Votives	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
76		419936	Sunflower Candles	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
140		710021	Pumpkin Tealight Candles s/6 - Multi	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
149		610000	Ghost Tealights s/4 - White	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
155		410904	Sweetheart Tealights s/9	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
156		610121	Hugs & Kisses Tealight s/9 - Multi	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.

213		200013	Assorted Flower Tealights s/9 - Multi	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
214		3709	Bright Flowers Tealight s/6 - Blue	yes	When viewed irrespective of decorations, this candle is a wax-filled container, which is a common candle type.
29		610549	Snowman Round Ornament	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
30		610548	Snowman Round Ornament	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
31		710030	Glitter Ornament Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
32		610550	Treelight Ornament Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.







33		610509	Small Snowball Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
34		610508	Large Snowball Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
35		610520	Golden Swirl Round Ornament	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
36		610482	Pinecone Round Ornament	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
37		710029	Large Whimsy Ornament Candle	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
38		610480	Berry Swirl Round Ornament	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.

39		610145	Dots Metallic Ornament Candle - Aqua	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
47		610403	Googly Eyes - Tall Pumpkin Candle	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
50		410174	Beach Ball Candles	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
54		510101	Crazy Eggs Candle	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
64		510008	Chick Candle - Aqua	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
86		610330	Candy Cane Ball	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.

99		610598	Small Treelight Tree Candle Green	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
100		610597	Small Treelight Tree Candle White	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
101		610547	Large Treelight Tree Candle White	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
102		610332	Small Sparkle Tree Candle - Dk Olive	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
103		610295	Small Sparkle Tree Candle - Red	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
104		610297	Small Sparkle Tree Candle - Gold	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.

105		610303	Large Sparkle Tree Candle - Red	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
106		610305	Large Sparkle Tree Candle - Gold	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
107		610299	Small Sparkle Tree Candle - Olive	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
108		610301	Large Sparkle Tree Candle - Olive	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
109		610319	Mini Sparkle Tree Candles s/3 - Red	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
110		610321	Mini Sparkle Tree Candles s/3 - Gold	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.







111		610323	Mini Sparkle Tree Candles s/3 - Olive	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
112		711073	Large Golden Tree Glitter Candle - Gold	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
113		711075	Small Golden Tree Glitter Candle - Gold	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
114		610307	Large Whimsy Tree Candle - Green	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
115		610309	Small Whimsy Tree Candle - Green	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
40		610333	Large Sparkle Tree	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.

41		610546	Large Treelight Candle - Green	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
21		610066	Floating Golden Tree Glitter Candles	yes	When viewed irrespective of decorations, this candle is a cone or triangle, which is a common candle shape.
130		610144	Dots Metallic Ornament Candle - Fuchsia	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
131		710000	Swirl Ornament Candle - Red/Green	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
132		710001	Swirl Ornament Candle - Red/White	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
133		710002	Dots Ornament Candle - White	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.







134		710095	Sm Whimsy Ornament Candles s/4 - Multi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
135		610104	Metallic Ball Candle - Multi	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
136		610095	Small Golden Ball Candle - Gold	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
137		610096	Large Golden Ball Candle - Gold	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.
161		510053	Crazy Eggs Candles s/4 - Multi Pastel	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
166		510099	Robin's Egg Candles s/3 Blue	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.


167		510005	Chirping Chick Candle - Lt Green	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
168		510006	Chirping Chick Candle - Lt Pink	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
169		510007	Chirping Chick Candle - Yellow	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
65		410028	Chick'n Egg Candle	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
222		610159	Acorn Candles s/6	yes	When viewed irrespective of decorations, this candle is an oval, which is a common candle shape.
180		711113	Sugared Harvest Pomegranate Candle - Terracotta	yes	When viewed irrespective of decorations, this candle is a round, which is a shape listed in the language of the scope.


67		710082	Floating Ornament Candles	yes	When viewed irrespective of decorations, this candle is a circle or flat oval, which is a common candle shape.
87		610561	Peppermint Candles	yes	When viewed irrespective of decorations, this candle is an circle or disc, which is a common candle shape.
94		610111	Floating Winter Sprig Candles s/2	yes	When viewed irrespective of decorations, this candle is an circle or disc, which is a common candle shape.
139		610006	Floating Pumpkin Candles s/3 - Orange	yes	When viewed irrespective of decorations, this candle is an circle, which is a common candle shape.
144		610419	Halloween Floating Candles s/6	yes	When viewed irrespective of decorations, this candle is an circle or disc, which is a common candle shape.
261		510056	Sana Stripe Lantern Candle - Red	yes	When viewed irrespective of decorations, this candle is a pillar, which is a shape listed in the language of the scope.







262		510057	Sana Stripe Lantern Candle - Kiwi	yes	When viewed irrespective of decorations, this candle is a pillar, which is a shape listed in the language of the scope.
263		510058	Sana Stripe Lantern Candle - Aqua	yes	When viewed irrespective of decorations, this candle is a pillar, which is a shape listed in the language of the scope.
88		100168	Large Firecracker Candle	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
48		100167	Small Firecracker Candles	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
26		610099	Floating Tree Candle	yes	When viewed irrespective of decorations, this candle is a cone or triangle, which is a common candle shape.
55		610172	Small Candy Corn Candle	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.

78		710101	Peppermint Candy Candles	yes	When viewed irrespective of decorations, this candle is a circle or oval, which is a common candle shape.
170		610097	Floating Peppermint Candle s/8 red	yes	When viewed irrespective of decorations, this candle is a circle or disc, which is a common candle shape.
173		410972	Floating Spiral Candles s/4 - Multi	yes	When viewed irrespective of decorations, this candle is an circle or disc, which is a common candle shape.
22		610543	Whimsy Snowman - Small	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
18		610512	Snowcap Taper Tree Candle	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
19		610523	Large Snowcap Tree	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.

42		710026	Glitter Tree Candle - Red	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
118		610101	Glitter Tree Straight Candles s/2 - Red	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
119		610103	Glitter Tree Straight Candles s/2 - Ivory	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
120		610524	Medium Snowcap Tree Candle White	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
121		610525	Small Snowcap Tree Candles White	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
122		710027	Glitter Tree Candles - Ivory	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.







172		710057	Candy Cane Candle - Multi	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
117		690041	Metallic Ball Tree Candle - Multi	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
28		710975	Gumdrop Tree Candle	yes	When viewed irrespective of decorations, this candle is a cone, which is a common candle shape.
52		610545	Whimsy Snowman Taper	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
142		610025	Witch's Hat Candle - Black	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.
150		610024	Ghost Taper Candle s/2 - White	yes	When viewed irrespective of decorations, this candle is a taper, which is a shape listed in the language of the scope.

171		710068	Marshmallow Candles s/4 - Multi	yes	When viewed irrespective of decorations, this candle is a square, which is a common candle shape.
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Sequence Number	Picture	Product No.	Product Name	Decision: In Scope?	Remand Analysis
1		610583	White Pumpkin Candle	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
4		710055	Pumpkin Candle	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
5		610582	Short Orange Pumpkin Candle	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
7		710003	Pumpkin Candles	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
9		610589	Pumpkin Cluster Candles	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
138		710022	Large Pumpkin Candles - Multi	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.

*Listed twice due to split decision

185		610589	Pumpkin Cluster Candle s/16 Orange	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
186		900298	s/3 Baby Boo Candles White	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
187		610287	Baby Boo Pumpkin Candles s/3 - Multi Harvest	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
188		610196	Baby Boo Pumpkin Candle - Ivory	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
189		711117	Harvest Pumpkin Candle - Ivory	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
192		371322	Pumpkin Candle - Orange	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
193		371326	Pumpkin Candle - Green	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.

195		710953	Large Sugared Pumpkin Candle - Orange	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
196		710955	Small Sugared Pumpkin Candle - Orange	no	This candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
12		710053	Large Scented Pear Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
8		710052	Mini Pear Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
177		610051	Mini Sugared Apples & Pears s/6 - White	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape.
178		100785	Sugared Mini Fruit Candles s/9 - Multi	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape.
179		711115	Sugared Mini Harvest Candles s/3 - Multi	Apple yes, pear no	When viewed irrespective of decorations, the apple candle is a round, which is a shape listed in the language of the scope, while the pear candle is not a common candle shape.






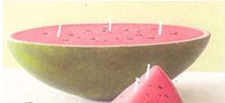

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181		4676	Mini Floating Pear Candles s/9 - Spring Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
182		610398	Floating Mini Pear Candles s/9 - Spring Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
183		711109	Sugared Harvest Pear Candle - Olive	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
13		610586	Mini Gourd Candles	no	The pumpkin candles have prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
190		711119	Harvest Gourd Candle - Olive	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
191		711121	Harvest Gourd Candle - Terracotta	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
57		610573	Brussels Sprout Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.








43		610587	Small Onion Candle	no	The bottom part of these candles is rounded, and there are significant ridges running vertically around the candle, which detract from the fundamental nature of these candles as a common candle shape, such as a cone.
20		610588	Large Onion Candle	no	The bottom part of these candles is rounded, and there are significant ridges running vertically around the candle, which detract from the fundamental nature of these candles as a common candle shape, such as a cone.
223		610208	Sugared Acorn & Pumpkin Candles/6 - Multi Harvest	no	The pumpkin candle has prominent ridges and a relatively greater degree of flatness on the bottom than would be consistent with a round. The acorn candle has a relatively flat bottom and also a relatively flat top, which detracts from the fundamental shape of this candle as a round or oval. When viewed irrespective of decorations, these candles are not in a shape listed in the scope nor is it a common candle shape.
143		610168	Witch's Cauldron Candle - Orange	no	This candle has a relatively flat bottom and also a relatively flat top, which detracts from the fundamental shape of this candle as a round or oval. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
17		210004	Cupcake Party Candle (Silver)	no	This candle has an irregularly tapering top, and the base is more significantly flat than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
6		210003	Cupcake Party Candle (Gold)	no	This candle has an irregularly tapering top, and the base is more significantly flat than would be consistent with a round. When viewed irrespective of decorations, this candle is not in a shape listed in the scope nor is it a common candle shape.
44		710024	Bat Candle on a String Set	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

45		710943	Pumpkin Hat Candle-Black	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
46		410032	Mini Cupcake Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
51		410048	Sherbet Candles Set	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
56		610585	Large Acorn Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
58		410079	Garden Snail Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
59		419938	Large Watermelon on Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
61		510098	Cupcake Party Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

63		410078	Garden Frog Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
71		510092	Jumbo Flip Flop Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
74		610345	Haunted House Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
16		410182	Watering Can Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
77		610473	Autumn 3-Wick Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
79		510055	3-Part Bunny Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
81		610584	Small Acorn Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

90	no picture available	No product #	Flower Bunch	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
91	no picture available	No product #	Flower Bunch	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
92	no picture available	No product #	Flower Bunch	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
93	no picture available	No product #	Flower Bunch	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
124		100878	Mini Nutcracker Candles / 3 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
23		610541	Whimsy Snowman - Large	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
27		610542	Whimsy Snowman - Medium	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.








125		610042	Snowman Candle - White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
126		100754	Snowman Woodcut Candle - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
127		711165	Happy Snowman Candle - Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
128		711167	Happy Snowman Candle - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
141		710945	Pumpkin Hat Candle - Orange	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
147		610017	Small Ghost Lantern Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
148		610018	Large Ghost Lantern Candle - White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

151		610204	Ghost Candle - White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
157		412916	Bunny w/Egg Candle Ivory	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
159		510013	Bunny Straight Candle - Multi Pastel	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
160		510067	Bunny Candles in a Basket s/4 - Multi Pastel	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
162		510547	Egg Candle in a Cup - Yellow	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
163		510551	Egg Candle in a Cup - Pink	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
164		510555	Egg Candle in a Cup - Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.








165		510557	Egg Candle in a Cup - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
184		419940	Small Watermelon Candle - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
197		410077	Garden Bird Candle Assortment - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
198		900218	Bird Candle - Silver	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
199		200614	Chocolate Bunny Candles s/3 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
200		412948	Bunny Candle s/2 - Ivory	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
201		412960	Baby Chick Candles s/3	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.






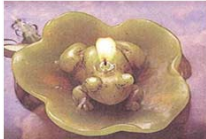

202		210905	Large L'il Chick Candle - Yellow	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
203		411985	Small L'il Chick Candle - Yellow	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
224		419926	Watering Can Candle - Olive	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
225		200094	Garden Birdhouse Candle - Sage	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
226		410000	Flip Flop Stripe Candle s/2 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
234		510593	Sangria Stripe Flip Flop Candle s/2 - Multi Primary	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
240		900351	Flip Flop Candles s/2 Orange	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

241		900352	Flip Flop Candles s/2 Pink	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
244		910709	s/2 Flip Flop Candles Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
246		910016	Floating Flip Flop Candle Orange	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
245		910711	s/2 Flip Flop Candles Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
253		910719	Woody Car with Surfboard	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
264		710067	Large Potted Tree Pinecone Candle Multi	no	The tops of these candles have a conical shape, however the bottom part of the candle tapers in the opposite direction from the top, and detracts from the fundamental shape of these candles as cones. Therefore, this candle is not in a shape listed by the scope nor is it a common candle shape.
265		710066	Sm Potted Tree Pinecone Candle - Multi	no	The tops of these candles have a conical shape, however the bottom part of the candle tapers in the opposite direction from the top, and detracts from the fundamental shape of these candles as cones. Therefore, this candle is not in a shape listed by the scope nor is it a common candle shape.








267		711133	Small Sugared Fruit Tree Candle - Multi	no	The tops of these candles have a conical shape, however the bottom part of the candle tapers in the opposite direction from the top, and detracts from the fundamental shape of these candles as cones. Therefore, this candle is not in a shape listed by the scope nor is it a common candle shape.
268		711135	Large Sugared Fruit Tree Candle - Multi	no	The tops of these candles have a conical shape, however the bottom part of the candle tapers in the opposite direction from the top, and detracts from the fundamental shape of these candles as cones. Therefore, this candle is not in a shape listed by the scope nor is it a common candle shape.
49		711107	Floating Snowman Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
53		610540	Snowman Floating Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
66		710102	Floating Holiday Cookie Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
68		610167	Floating Fall Leaf Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
69		410068	Floating Turtle Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.








70		419952	Floating Leaf Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
72		419924	Floating Small Flower Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
75		610385	Critter Candles	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
82		610474	Autumn Leaf Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
82		610474	Autumn Leaf Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
95		301928	Floating Holly Candles s/4 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
96		900261	Floating Holly Candles s/2 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.








97		900347	Floating Holly Candles s/4	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
98		610206	Holly Berry Floating Leaf Candles s/2 Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
116		610036	Floating Whimsy Tree Candles s/5 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
84		510059	Umbrella Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
123		900334	Floating Jester Stocking Dark Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
129		610142	Floating Snowman Candle - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
145		710935	Floating Glitter Spider Web Candle	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.







146		610176	Floating Halloween Candles - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
152		710931	Mini Floating Ghost Candle - White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
153		610010	Floating Mini Ghost Candles s/4 - White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
158		510054	Floating Bunny Candles s/3 - Multi Pastel	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
174		610037	Asst Sugar Cookie Candles s/16 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
204		200569	Floating Frog Candles s/2 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
205		200567	Floating Ladybug Candles s/2 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

206		200568	Floating Turtle Candles s/3 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
207		900353	Hula Girl Floaters s/2	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
208		910735	Tiki Floating Candles s/2 Wood	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
209		410004	Large Floating Bright Candle - Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
210		410005	Large Floating Bright Candle - Yellow	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
211		410006	Large Floating Bright Candle - Aqua	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
212		410007	Large Floating Bright Candle - Kiwi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

219		510074	Floating Spring Candles s/3 - Multi Pastel	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
220		610240	Floating Mini Leaf Candles s/9 - Multi Harvest	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
221		710058	Falling Leaves Floating Candles s/4 - Multi Harvest	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
227		410038	Flip Flop Polka Dot Candles s/2 Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
228		410039	Flip Flop Flower Candles s/2 Orange	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
229		410040	Flip Flop Striped Candles s/2 Lt Aqua	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
230		412003	Floating Flip Flop Candles s/2 Kiwi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

231		412005	Floating Flip Flop Candles s/2 - Fuchsia	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
232		412964	Floating Flip Flop Candles s/2 - Yellow	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
233		510066	Floating Patriotic Flip Flop Candle s/2 - Multi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
235		510613	Floating Flower Flip Flop Candle s/2 - Aqua	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
236		510615	Floating Flower Flip Flop Candle s/2 - Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
237		510617	Floating Flower Flip Flop Candle s/2 - Kiwi	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
238		900220	Flip Flop Candles Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

239		900221	s/2 Flip Flop Candles Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
242		900220	s/2 Flip Flop Candles Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
243		900221	s/2 Flip Flop Candles Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
247		910725	Hawaiian Shirt Floating Candle Red/White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
248		910723	Hawaiian Shirt Floating Candle Blue/White	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
249		910727	Shorts Floating Candle Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
250		910729	Shorts Floating Candle Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.

251		910731	Surfboard Floaters s/2 Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
252		910733	Surfboard Floaters s/2 Blue	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
258		610089	Snowflake Mitten Candles s/2 - Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
259		610090	Dots Mitten Candles s/2 - Green	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
260		900335	s/2 Floating Mitten Candles - Red	no	When viewed irrespective of decorations, this candle is not in a shape listed by the scope nor is it a common candle shape.
154		410922	Sweetheart Candles s/6 - Red	no	When viewed irrespective of decorations, this candle is a heart, which is not in a shape listed by the scope nor is it a common candle shape.