



2017 Trade Update

NCA's Annual Business Meeting

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Agenda



- Introduction
- Current Trade Issues
 - Litigation on Scope Clarification
 - 4th Sunset Review Concluded
 - Order in effect for 5 more years
- Trade Issues on the Horizon: Areas to Watch

Background of Trade Case

- In effect since 1986.
- Persistent attempts to circumvent Order.
- Key victories for the NCA in defending and preserving the tariffs.

Antidumping: The Basics

- Dumping occurs when a foreign producer sells a product in the U.S. at a price that is below that producer's sales price in its home market, or at a price that is lower than its cost of production.
- If Commerce finds dumping is occurring, and the International Trade Commission (ITC) finds injury to the U.S. industry, an Order issued and enforced by Customs & Border Protection.

Market Before the Order

- 1979 -- 1984 volume of China imports increased 3,700%.
- Decline in U.S. production, sales and profits, despite growing demand.
- Many U.S. candle companies went out of business.
- Chinese imports of candles dominated the U.S. market with low prices.

Background of Antidumping Duty Order

- In 1986, original antidumping duty was 54%.
- In 2004, duty doubled to 108%, after successful government review of the Order.

Background of Antidumping Duty Order

- Early 2000s, massive circumvention of Order via China imports of mixed-wax candles.
- 87% of candle imports from China not assessed antidumping duty.
- In 2004, NCA filed anti-circumvention petition alleging mixed-wax candles should be covered by the tariffs.
- In 2006, Commerce determined mixed-wax candles were within the scope of the Order.

Current Trade Issues:

4TH SUNSET REVIEW & LITIGATION OF SCOPE CLARIFICATION

4th Sunset Review

U.S. Government agencies will decide if antidumping duties are still necessary.

Does the U.S. candle industry still need the protection?

If not, the order will be sunset (revoked).





What is a Sunset Review?



- **Commerce and ITC must conduct 5 year review to determine if the tariffs should be revoked.**
 - ITC responsible for determining if revocation would likely result in material injury or threat of material injury to domestic industry.
 - Commerce responsible for determining if revocation would likely lead to a continuation or recurrence of dumping.
- **Four sunset reviews (1 full; 3 expedited).**

Fourth Sunset Review

- NCA members and non-members answered our questionnaire, providing us with data to prepare adequate responses from the domestic industry.
- Thank you for your cooperation!



Success Order Continued for Another 5 Years

- Affirmative determination by Commerce on March 24, 2016 dumping would continue if Order was revoked
- Affirmative determination by ITC on May 12, 2016 of material injury or threat of material injury to the domestic industry;
- Candle Order continued by Commerce effective May 26, 2016;
- Next Initiation Date for 5th Sunset Review is April 1, 2021

Litigation of Scope Clarification

- In 2009, to manage hundreds of scope requests, Commerce proposed criteria to clarify what candles are within the scope of the Order.
- More than 170 Commerce scope requests, covering hundreds and hundreds of candle styles.

Scope Clarification

- In 2011, after significant efforts by NCA, Commerce decided that the scope language was:
 - “All inclusive” and not limited to only shapes listed in the Order.
 - Caveat: 3 types excluded (birthday, utility and figurine candles). These candles excluded since original investigation, and are narrowly defined with objective dimensions & physical characteristics.

Litigation of Scope Clarification

- If a candle is excluded from the Order, it enters the U.S. duty free.
- TAG, an importer, filed suit, challenging Commerce's 2011 decision. TAG claimed list of candle types in Order is exhaustive, not indicative (*Trade Associates Group ("TAG") vs. U.S.*).
- TAG seeking to expand volume of duty-free imports from China.
- Due to NCA's efforts, Commerce has held firm that the scope of the Order is "all inclusive" (sort of like this resort...).

Litigation of Scope Clarification

- January 2014, Court of International Trade “remanded” case (sent case back to Commerce, ordering Commerce to better justify its decision). In remand, Court opined that list of candle types in scope was exhaustive.
- June 2014, Commerce filed “remand redetermination”. Commerce held firm that list of candles in scope illustrative, not exhaustive.
- September 2014, Parties’ filed round of briefs with the Court.
- December 2015, Court again remanded case to Commerce. Court ruled “inclusive interpretation” of scope foreclosed, and mandated an “exclusive interpretation” of list of candle types in scope.

Litigation of Scope Clarification

- February 2016, Commerce issued its 2nd remand redetermination, in response to the Court's December decision. Commerce responded to the Court's decision "under protest."
- March 4, 2016, NCA filed comments on Commerce's draft remand.
- Commerce filed remand results with the Court on May 31, 2016.
- On July 29, 2016 NCA and TAG filed comments with the Court on Commerce's remand determination
- On October 14, 2016, the Government filed a Reply to the Parties comments on the Remand Results.
- Court granted parties motion to stay the proceedings on January 6, 2017 while parties discuss possible resolution
- Second request to stay the proceedings filed on April 3, 2017 as parties continue discussion of possible resolution

What's on the Horizon?

TRADE ISSUES TO WATCH

Imports from Vietnam, Canada Dwarf China

CANDLES IMPORT REPORT: FULL YEAR 2016

CONSUMPTION VALUE OF IMPORTS FROM THE TOP TWELVE CURRENT SUPPLIERS ANNUAL 2012-2016

VALUE
(1,000 U.S.\$)

Country	2014	2015	2016
Vietnam	127,240	138,499	165,337
Canada	89,226	94,388	85,265
Mexico	22,892	20,281	22,237
India	26,512	29,757	29,823
Dominican Republic	11,953	12,234	12,335
China	36,032	35,302	32,014
Thailand	12,944	11,719	11,264
Poland	24,224	8,080	6,943
Israel	4,038	3,490	2,590
Federal Republic of Germany	2,611	2,633	2,418
United Kingdom	7,834	7,470	7,628
Malaysia	1,848	1,480	1,403
All Other	24,859	26,165	21,885
Total	392,013	391,496	401,143

Source: U.S. Department of Commerce, Bureau of the Census: Imports for Consumption, HTS# 3406.00.0000.

Prepared by Economic Consulting Services, LLC

Vietnam, Canada Prices are Lower than China

**CANDLES: 30-YEAR HISTORY OF U.S. IMPORTS FOR CONSUMPTION, TOTAL AND FROM THE TOP TWELVE CURRENT SUPPLIERS, ANNUAL 1987-2016
AVERAGE UNIT CUSTOMS VALUES
(U.S.\$ / LB)**

<u>Country</u>	<u>2015</u>	<u>2016</u>
Vietnam	1.83	1.88
Canada	1.22	1.17
Mexico	0.65	0.60
India	1.01	0.95
Dominican Republic	0.73	0.69
China	2.44	2.34
Thailand	1.41	1.39
Poland	0.97	1.21
Israel	1.32	1.38
Federal Republic of Germany	1.78	1.75
United Kingdom	4.95	5.72
Malaysia	1.45	1.51
All Other	3.09	3.21
Total	1.41	1.40

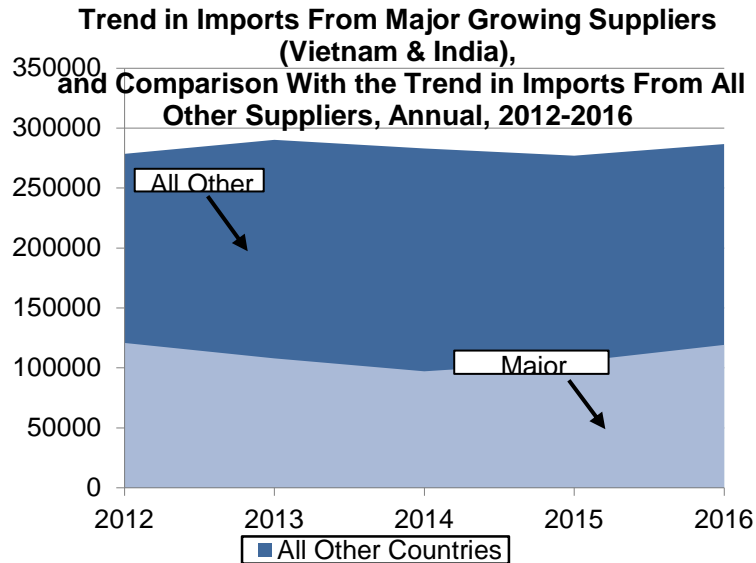
Source: U.S. Department of Commerce, Bureau of the Census

Import and Pricing Trends

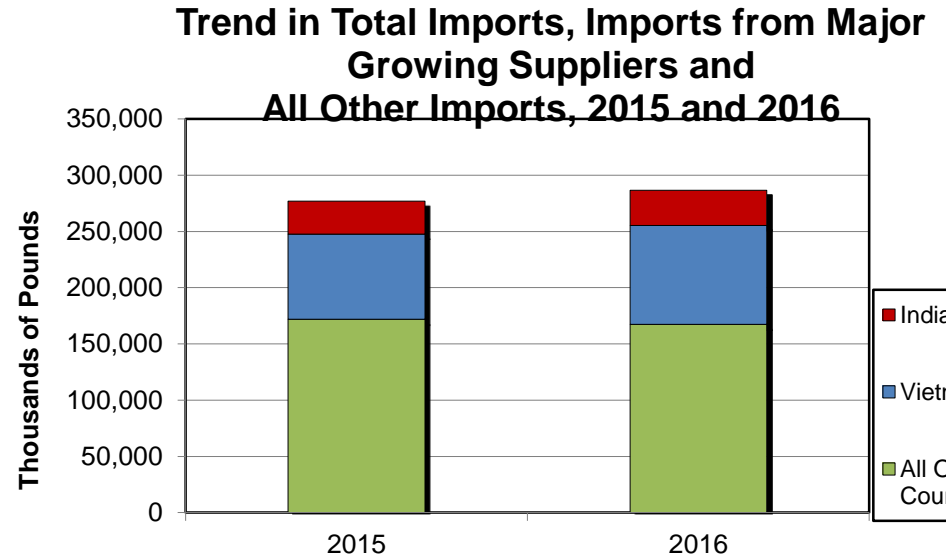
- Vietnam exports 516% more than China, by value. Vietnam prices about 20% lower than China.
- Canada exports 194% more than China, by value. Canada prices 50% lower than China.
- Suggests circumvention and/or dumping.

Import Trends from Growing Suppliers (Vietnam & India)

Candles Import Report: FULL YEAR 2016



Candles Import Report: FULL YEAR 2016



Questions?