

(Authority: 43 U.S.C. 1714(b)(1) and 43 CFR 2300)

**Raymond Suazo,**

*State Director.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-352]

### Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of opportunity to submit information relating to matters to be addressed in the Commission's 20th report on the impact of the Andean Trade Preference Act (ATPA).

**SUMMARY:** Section 206 of the ATPA (19 U.S.C. 3204) requires the Commission to report biennially to the Congress and the President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers, and on the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts by beneficiary countries. The Commission prepares these reports under Investigation No. 332-352, *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution*.

**DATES:**

*August 8, 2022:* Deadline for filing written submissions.

*August 31, 2022:* Transmittal of Commission report to Congress and the President.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commissions electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Wen Jin "Jean" Yuan, Project Leader, Office of Economics ([Wen.Yuan@usitc.gov](mailto:Wen.Yuan@usitc.gov) or 202-205-2383) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the

Commission's Office of the General Counsel ([william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov) or 202-205-3091). The media should contact Jennifer Andberg, Office of External Relations ([jennifer.andberg@usitc.gov](mailto:jennifer.andberg@usitc.gov) or 202-205-3404). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov/>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**Background:** Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act from beneficiary countries;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on such domestic industries; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Under the statute, the Commission is required to prepare this report regardless of whether duty-free treatment or other preferential treatment was provided during the period covered by the report. During the period to be covered by this report, calendar years 2020 and 2021, no imports entering the United States received preferential treatment under the ATPA program.

The Commission does not plan to hold a public hearing in this proceeding. The Commission will submit its report by August 31, 2022. The initial notice announcing institution of this investigation for the purpose of preparing these reports was published in the **Federal Register** of March 10, 1994 (59 FR 11308). Notice providing opportunity to file written submissions in connection with the nineteenth report was published in the **Federal Register** of May 22, 2020 (85 FR 31209).

**Written Submissions:** Interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., August 8, 2022. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802) or consult the Commission's Handbook on Filing Procedures.

**Confidential Business Information.**

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission will not include any confidential business information in the report that it sends to the President and the Congress. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel (a) for cybersecurity purposes or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in

a way that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should mark the summary as having been provided for that purpose. The summary should be clearly marked as “summary for inclusion in the report” at the top of the page. The summary may not exceed 500 words and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission’s Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: July 15, 2022.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1195]

### Certain Electronic Candle Products and Components Thereof; Notice of a Commission Determination To Affirm the Remand Initial Determination With Certain Modifications and To Find No Violation; Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has, on review, determined to affirm the remand initial determination (“RID”) issued on December 29, 2021, finding that Complainants failed to establish the economic prong of the domestic industry requirement in the above-referenced section 337 investigation. The Commission has determined to modify the RID as explained in the Commission opinion issued herewith.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this

investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On April 6, 2020, the Commission instituted this investigation based on a complaint filed by complainants L&L Candle Company LLC of Brea, California and Sotera Tschetter, Inc. of St. Paul, Minnesota (together, “Complainants”). 85 FR 19158–59 (Apr. 6, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic candle products and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,550,660; 9,366,402; 9,512,971; 9,523,471; and 10,533,718. *Id.* The notice of investigation named as respondents: The Gerson Company of Olathe, Kansas; Gerson International (H.K.) Ltd. of Hong Kong; Sterno Home Inc. of Coquitlam, Canada; Ningbo Huamao International Trading Co., Ltd. of Ningbo City, China; Ningbo Yinzhou Langsheng Artware Co., Ltd of Ningbo City, China; Lifetime Brands, Inc. of Garden City, New York; Scott Brothers Entertainment, Inc. of Las Vegas, Nevada; Nantong Ya Tai Candle Arts & Crafts Co., Ltd. of San Gabriel, California; NapaStyle, Inc. of Napa, California; Veraflame International, Inc. of Vancouver, Canada (“Veraflame”); MerchSource, LLC of Irvine, California; Ningbo Mascube Import Export Company of Ningbo City, China (“Ningbo Mascube”); Decorware International Inc. dba Decorware Inc. of Rancho Cucamonga, California; Shenzhen Goldenwell Smart Technology Co., Ltd. of Shenzhen City, China; Shenzhen Ksperway Technology Co., Ltd. of Shenzhen City, China; Ningbo Shanhuang Electric Appliance Co. of Ningbo City, China (“Ningbo Shanhuang”); Yiwu Shengda Art Co., Ltd. of Yiwu City, China (“Yiwu Shengda”); Shenzhen Tongfang Optoelectronic Technology Co., Ltd. of Shenzhen City, China; TFL Candles of Shenzhen City, China; Guangdong Tongfang Lighting Co., Ltd. of Hong Kong; Tongfang Optoelectronic

Company of Hong Kong; and Virtual Candles Limited of Kent, United Kingdom (“Virtual Candles”). *Id.* at 19159. The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.*

Of the twenty-two respondents, five were terminated based on consent orders, eight were terminated based on settlement agreements, three were terminated based on a voluntary withdrawal of the complaint due to an inability to serve, and one was terminated based on a summary determination of no importation. *See* Order No. 7 (May 4, 2020), *unreviewed by* Comm’n Notice (Jun. 3, 2020); Order No. 37 (Dec. 17, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021); Order No. 12 (Jun. 15, 2020), *unreviewed by* Comm’n Notice (Jun. 20, 2020); Order No. 15 (Jul. 15, 2020), *unreviewed by* Comm’n Notice (Aug. 5, 2020); Order No. 29 (Oct. 19, 2020), *unreviewed by* Comm’n Notice (Nov. 2, 2020; Order No. 38 (Dec. 18, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021); Order No. 39 (Dec. 18, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021). The Commission found the following five remaining respondents in default for failing to respond to the complaint and notice of investigation and for failing to show cause why they had not done so, or for failing to participate in discovery: Veraflame, Ningbo Mascube, Ningbo Shanhuang, Yiwu Shengda, and Virtual Candles (“the Defaulting Respondents”). *See* Order No. 14 (Jul. 8, 2020), *unreviewed by* Comm’n Notice (Aug. 3, 2020) (finding Veraflame, Ningbo Mascube, and Virtual Candles in default); Order No. 33 (Nov. 12, 2020), *unreviewed by* Comm’n Notice (Nov. 30, 2020) (finding Yiwu Shengda and Ningbo Shanhuang in default).

On November 13, 2020, Complainants moved for a summary determination of violation as to the Defaulting Respondents and for a recommendation for the issuance of a general exclusion order. On December 4, 2020, OUII filed a response that questioned whether Complainants had satisfied the economic prong of the domestic industry requirement, but otherwise supported a finding of violation of section 337 and issuing a general exclusion order. On April 2, 2021, the ALJ issued an initial determination (“ID”), Order No. 41, granting Complainants’ motion for summary determination of violation by each of the five Defaulting Respondents. Order No. 41 (Apr. 2, 2021).

On May 19, 2021, the Commission determined on its own motion to review the ID’s finding that Complainants satisfied the economic prong of the