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DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-812]

Honey from Argentina: Preliminary Rescission of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: The Department of Commerce (the “Department”) is currently conducting a new shipper review (“NSR”) of the antidumping duty order on honey from Argentina for the period of December 1, 2010, through November 30, 2011. As discussed below, we preliminarily determine that the exporter D’Ambros María de los Angeles and D’Ambros María Daniela SH, an Argentine partnership doing business as Apícola Danangie (“Danangie”) did not satisfy the regulatory requirements for an NSR; therefore, we are preliminarily rescinding this NSR. We invite interested parties to comment on this preliminary rescission of review. See “Comments” section below.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC, 20230; telephone: (202) 482-8029 or (202) 482-3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on honey from Argentina was published on December 10, 2001.¹ On January 3, 2012, the Department received a timely filed request for a NSR from Danangie.² On January 25, 2012, the Department initiated this NSR. See Honey from Argentina: Notice of Initiation of Antidumping New Shipper Review, 77 FR 4763 (January 31, 2012) (“Initiation Notice”). Along with the Initiation Notice, the Department released its Initiation Checklist. See Memorandum to the File, through Angelica L. Mendoza, Program Manager, regarding “Initiation of the Antidumping Duty New Shipper Review: Honey from Argentina,” dated January 25, 2012 (“Initiation Checklist”). While the Department found that Danangie met the regulatory and statutory requirements for the initiation of a NSR in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214(d), the Department noted in the Initiation Notice that it had concerns with certain information contained within the entry data received from U.S. Customs and Border Protection (“CBP”). Due to the business proprietary nature of this information, details of the Department’s concerns are discussed in the Initiation Checklist. The Department further noted that it intended to address this issue after initiation of the NSR and that, if based on information collected, it determined that an NSR for Danangie was not warranted, the Department may rescind the review or apply facts available pursuant to section 776 of the Act, as appropriate.

On February 23, 2012, the Department issued the antidumping questionnaire to Danangie. On March 15, 2012, Danangie submitted its response to section A of the Department’s questionnaire. On April 5, 2012, the Department received Danangie’s responses to

¹ See Notice of Antidumping Duty Order: Honey From Argentina, 66 FR 63672 (December 10, 2001).

² We note that January 3, 2012 was the first business day following the deadline of December 31, 2012.

sections B and C of the questionnaire. On May 25, 2012, the Department issued a supplemental questionnaire to Danangie concerning, among other things, Danangie's organization, ownership, and sales history. Danangie submitted its response to the Department's supplemental questionnaire on June 19, 2012.

Following a review of Danangie's supplemental response, and due to the continued concern over certain information found in the entry data provided by CBP prior to initiation, on June 21, 2012, we requested that Danangie review its sales records to ensure that a previous sale of honey was not made by the company prior to the current NSR period. On July 5, 2012, Danangie filed on the record of this NSR a letter stating that Danangie did make a prior sale of subject merchandise which was shipped to the United States.

Period of Review

Pursuant to 19 CFR 351.214(g), the period of review ("POR") for this NSR is the annual period of December 1, 2010, through November 30, 2011.

Scope of the Order

The merchandise covered by the order is honey from Argentina. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under this order is dispositive.

Preliminary Rescission of the Antidumping New Shipper Review of Danangie

The NSR provisions of the Department's regulations require that the entity making a request for a NSR must document and certify, among other things: (1) the date on which subject merchandise of the exporter or producer making the request was first entered or withdrawn from warehouse, for consumption, or, if it cannot establish the date of first entry, the date on which the exporter or producer first shipped the merchandise for export to the United States; (2) the volume of that and subsequent shipments; and (3) the date of the first sale to an unaffiliated customer in the United States. See 19 CFR 351.214(b)(2)(iv). If these provisions, among others, are met, the Department will initiate a NSR to establish an individual weighted-average dumping margin for the new shipper. See generally 19 CFR 351.214(b)(2).

In its request for a NSR, Danangie provided certified statements that the first entry of its subject merchandise into the United States occurred during the POR. See Letter from Danangie to the Secretary of Commerce, entitled "Request for New Shipper Review of Honey From Argentina: Apícola Danangie," dated December 31, 2011. Based on this information, the Department initiated the NSR for Danangie. See Initiation Notice.

However, as noted in the Initiation Notice and the Initiation Checklist, based on an analysis of CBP data, the CBP Entry Documents, and Danangie's supplemental questionnaire responses, the Department has determined that Danangie had a prior shipment of subject merchandise to the United States. As noted, in order to qualify for a NSR under 19 CFR 351.214, a company must certify and document among other things, the date of the first entry of its subject merchandise or date of first shipment and the volume of that and subsequent shipments to the United States. Id. Further, a request for an NSR must be made within one year of the date of the first entry (or if appropriate, first shipment for export to the United States). See 19 CFR 351.214(c). Because record evidence shows that Danangie did not report its first

shipment of subject merchandise in its request for a NSR, and did not meet the deadline requirements of section 351.214(c) of the Department's regulations, the Department has preliminarily found that Danangie's request does not satisfy the regulatory requirements for an NSR, and thus the Department preliminarily determines that it is appropriate to rescind the NSR for Danangie. As much of the factual information used in our analysis for the rescission of Danangie's NSR involves business proprietary information, a full discussion of the basis for our preliminary rescission of this review is set forth in the Memorandum to Angelica L. Mendoza, AD/CVD Operations, Office 7, entitled "Preliminary Analysis of Apicola Danangie's Entries in the Antidumping Duty New Shipper Review of Honey from Argentina," dated concurrently with this notice.

Assessment Rate

If the Department proceeds to a final rescission of Danangie's NSR, the assessment rate to which Danangie's shipments will be subject will not be affected pursuant to such rescission. The assessment rate for Danangie's shipments, however, could change as the Department is conducting an administrative review of the antidumping duty order on honey from Argentina covering Danangie and the period of December 1, 2010, through November 30, 2011. Thus, if we proceed to a final rescission, we will instruct CBP to continue to suspend entries during the period December 1, 2010, through November 30, 2011, of subject merchandise exported by Danangie until CBP receives instructions relating to the administrative review of the honey order covering the period December 1, 2010, through November 30, 2011.

Cash Deposit Requirements

If the Department proceeds to a final rescission, effective upon publication of the final rescission of the NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Danangie. Also,

if we proceed to a final rescission of the NSR, the cash deposit rate will continue to be the all other's rate for entries exported by Danangie.

Disclosure

We will disclose our analysis memorandum to the parties to this proceeding not later than five days after the date of public announcement, or, if there is no public announcement, within five days of the date of publication of this notice. See 19 CFR 351.224(b).

Comments

Interested parties are invited to comment on this preliminary rescission of review and may submit case briefs within 30 days of the date of publication of this notice, unless otherwise notified by the Department. See 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties are requested to provide a summary of their arguments not to exceed five pages, and a table of the statutes, regulations, and cases cited.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final rescission or final results of this NSR, including the results of our analysis of issues raised in any briefs, not later than 90 days after this preliminary rescission is issued, unless the deadline for the final rescission or final results is extended. See 19 CFR 351.214(i).

Notification to Importers

This notice serves as a preliminary reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The NSR and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act, as amended and 19 CFR 351.214(f).

Paul Piquado
Assistant Secretary
for Import Administration

July 23, 2012 _____
Date

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