

February 28, 2007, did not provide any required supporting documents and therefore, it does not meet the threshold requirements for initiation of a new shipper review for the shipment of certain frozen fish fillets from Vietnam, pursuant to sections 751(a)(2)(B)(i)(I) and (II) of the Act, and 19 CFR 351.214(b)(2)(i), 351.214(b)(2)(iii)(A) and (B), and 351.214(b)(2)(iv). With respect to South Vina's submission on March 9, 2007, the Department agrees with Petitioners that it was submitted untimely for this semi-annual anniversary month because it was received nine days after the deadline, February 28, 2007, which is the last day of the semi-annual anniversary month. The Department disagrees with South Vina's arguments that: (1) the new shipper regulation does not require that the certification and accompanying documentation be submitted with the original request; and (2) the pertinent regulation merely requires that the request for review be made "within one year of the date referred to" in paragraph 19 CFR 351.214(b)(2)(iv)(A). To the contrary, 19 CFR 351.214(b)(2) clearly specifies the "contents of request," which includes: (1) A certification from the requester or its producer stating that no subject merchandise was exported to the United States ("U.S.") during the POI; (2) a certification stating that since the initiation of the investigation, the requester has never been affiliated with any exporter or producer who exported subject merchandise to the U.S. during the POI; (3) a certification stating no government control over the requester's export activities in a nonmarket economy case; and (4) information regarding the date of the requester's first entry or shipment of subject merchandise, the volume of the first and all subsequent shipments of subject merchandise to the U.S., and the date of requester's first sale to an unaffiliated U.S. customer. Furthermore, 19 CFR 351.214(a) points out that the purpose of the URAA to establish a new shipper review procedure is to allow new shippers the opportunity to attain their own individual dumping margin on an expedited basis. In accordance with 19 CFR 351.214(d), the Department is required to initiate a new shipper review within a month immediately following the semi-annual anniversary month or the anniversary month depending on the date of the request. Accordingly, the Department must have all required supporting documents on the record by the submission deadline in order to initiate a new shipper review in a timely manner.

As noted above, on March 22, 2007, South Vina submitted a list of cases where the Department sent supplemental questionnaires prior to initiation and therefore, South Vina argues, the Department should accept its March 9, 2007, supporting documentation and initiate a new shipper review. However, in each case cited by South Vina, the requestor included the documents required by section 351.214(b)(2) in its original request, which South Vina did not include in its February 28, 2007, request. Because South Vina did not provide any of the "contents of request" in its original request, and its submission on March 9, 2007, is untimely, the Department has determined that South Vina's request does not meet the statutory and regulatory requirements for initiation. Therefore, the Department has removed South Vina's February 28, 2007, and its March 9, 2007, submissions from the record, and rejected South Vina's new shipper review request, in accordance with sections 751(a)(2)(B)(i)(I) and (II) of the Act, and 19 CFR 351.214.

The POR for the three new shipper reviews is August 1, 2006, through January 31, 2007. See 19 CFR 351.214(g)(1)(ii)(A). The Department intends to issue the preliminary results of these reviews no later than 180 days from the date of initiation, and final results of these reviews no later than 270 days from the date of initiation. See section 751(a)(2)(B)(iv) of the Act. Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: March 26, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-863)

#### Honey from the People's Republic of China: Expedited Partial Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On January 3, 2007, the Department published the Preliminary Results of the fourth administrative review of the antidumping duty order on honey from the People's Republic of China (PRC). See *Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 102 (January 3, 2007) (Preliminary Results). This review covers five exporters or producer/exporters: (1) Anhui Honghui Foodstuff (Group) Co., Ltd. (Anhui Honghui); (2) Chengdu Waiyuan Bee Products Co., Ltd. (Chengdu); (3) Jiangsu Kanghong Natural Healthfoods Co., Ltd. (Jiangsu); (4) Kunshan Xin'an Trade Co., Ltd. (Kunshan Xin'an); and (5) Wuhan Shino-Food Trade Co., Ltd. (Shino-Food). The period of review (POR) is December 1, 2004, through November 30, 2005.

In response to a request from the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners), the Department is expediting the final results of this review for Chengdu, an uncooperative respondent, because of its extraordinary surge of exports and the significant difference between Chengdu's current cash deposit rate of 22.03 percent and Chengdu's preliminary cash deposit rate of 212.39 percent based on total facts available with adverse inference.

**EFFECTIVE DATE:** April 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Judy Lao 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) 482-7924 or (202) 482-3019, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

Since the Preliminary Results the following events have occurred. On January 12 and 29, 2007, counsel to the petitioners met with Department officials to discuss their concerns about

a surge in entries by Chengdu and resultant injury to the domestic honey industry. See Memoranda to the File dated January 18 and 29, 2007, respectively. Subsequently, the petitioners filed a request that the Department expedite the final results of review with respect to Chengdu. See Letter from the petitioners to the Secretary, dated February 6, 2007. In their request, the petitioners argue that Chengdu has "misused" the lowest cash deposit rate for any Chinese exporter of honey (22.03 percent) to ship huge quantities to the United States, causing immense harm to the domestic industry, while refusing to participate in administrative reviews.<sup>1</sup>

On February 7, 2007, the Department informed counsel to Chengdu of the petitioners' submission and our decision to accept the new information contained therein. We indicated that any comments on the submission were due on February 16, 2007. See Memorandum to the File from Patrick Edwards dated February 7, 2007. On February 15, 2007, the Department received a letter from Chengdu stating that its U.S. customer had informed them of the petitioners' letter dated February 7, 2007, and requesting an opportunity to comment or provide its own data to verify the accuracy of the petitioners' information. On February 16, 2007, the counsel of record for Chengdu notified the Department that it does not represent Chengdu. On the same day, the Department sent a letter via facsimile to Chengdu extending the comment period until February 23, 2007. On February 23, 2007, the Department received a facsimile letter from Chengdu restating some of the same points made in its previous letter but providing no new information. The letter was not properly filed and the Department gave Chengdu until February 26, 2007, to file its letter for the record. However, Chengdu did not submit its letter until March 5, 2007, and the Department rejected it as untimely. See Letter to Chengdu dated March 5, 2007.

On February 28, 2007, the Department issued a Decision Memorandum expediting the final results of review for Chengdu and extending the deadline for case briefs for all parties in this review until March 14, 2007, and for rebuttal briefs until March 21, 2007. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, Expedited Final Results

of Administrative Review for Chengdu Waiyuan Bee Products Co., Ltd. (February 28, 2007) (Decision Memo). No comments with respect to the expedited final results for Chengdu were filed.

According to section 751(a)(3) of the Tariff Act of 1930, as amended (the Act), the Department "shall make . . . a final determination . . . within 120 days after the date on which the preliminary determination is published." See also 19 CFR § 351.213(h)(1). The Department's normal practice is to issue a final determination for all companies simultaneously. In this case, however, extraordinary circumstances support our issuance of the final results of this review with respect solely to Chengdu prior to 120 days after publication of the preliminary results. Specifically, the surge in Chengdu's shipments, its failure to participate in administrative reviews to enable the Department to calculate a dumping margin, and the large difference between the current cash deposit rate and the rate assigned to Chengdu in the preliminary results of this review constitute extraordinary circumstances in support of expediting the final results for Chengdu. We believe that under these extraordinary circumstances a departure from our normal practice is warranted. For further analysis, see the proprietary version of Decision Memo.

#### Scope of the Antidumping Duty Order

The products covered by this order 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 subject to this order 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 the order is dispositive.

#### Rate for Chengdu

The PRC-wide rate applies to all PRC entities with the exception of those exporters that have demonstrated their eligibility for a separate rate. While Chengdu failed to demonstrate its eligibility for a separate rate on the record of this review, and thus is considered to be part of the PRC entity,

the Department has determined that circumstances warrant expedited final results of review solely with respect to Chengdu. As a result, for these expedited final results, the Department is issuing a rate applicable solely to Chengdu.

In its preliminary results, the Department assigned a rate to the PRC-wide entity (including Chengdu) based on adverse facts available (AFA). No party to the proceeding commented on the rate to be assigned to Chengdu for purposes of the final results. Based upon our review of the record, the Department will continue to assign the rate of 212.39 percent to Chengdu, which is the rate assigned to the PRC-wide entity (including Chengdu) in the preliminary results. The final PRC-wide rate will be determined in the final results of review that will cover all entities other than Chengdu. These non-expedited final results of review are currently due for issuance by May 3, 2007.

#### Final Results of Review

We determine that the following antidumping duty margin applies:

Producer/Exporter	Margin (percent)
Chengdu Waiyuan Bee Products Co., Ltd. ....	212.39

#### Assessment of Antidumping Duties

Pursuant to 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

#### Cash Deposits

The following cash-deposit requirements will be effective upon publication of these expedited partial final results for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these partial final results, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Chengdu, the cash deposit rate will be 212.39 percent; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-wide rate of 212.39 percent; and (4) for

<sup>1</sup> Chengdu did not request a review for the fifth review period of 12/1/2005-11/30/2006.

all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of this administrative review for Anhui Honghui, Jiangsu, Kunshan Xin'an, Shino-Food and companies subject to the PRC-wide rate with the exception of Chengdu. For Chengdu, these deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Interested Parties

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 27, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Certain Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review

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

**EFFECTIVE DATE:** April 2, 2007.

**SUMMARY:** On February 20, 2007, the Department of Commerce ("the Department") received a request from the exporter and producer Ayecue

(Liaocheng) Foodstuff Co., Ltd. ("Ayecue") to conduct a new shipper review ("NSR") of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC"). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(d), we are initiating a NSR of Ayecue.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Martin or Mark Manning; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-5253, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department received a timely request from Ayecue on February 20, 2007, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(c), for a NSR of the antidumping duty order on certain preserved mushrooms from the PRC, which has a February anniversary month. See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China*, 64 FR 8308 (February 19, 1999). Upon review, the Department determined that Ayecue's February 20, 2007, request was deficient in certain areas. The Department issued a supplemental to Ayecue on February 27, 2007. On March 19, 2007, Ayecue submitted a revised request for a NSR that provided the requested information.

Ayecue identified itself as a producer and exporter of preserved mushrooms. As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), Ayecue certified that it did not export preserved mushrooms to the United States during the period of investigation ("POI"), and that it has never been affiliated with any exporter or producer which exported preserved mushrooms to the United States during the POI. Furthermore, the company also certified that its export activities are not controlled by the government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B).

Pursuant to 19 CFR 351.214(b)(2)(iv), Ayecue submitted documentation establishing the date on which the subject merchandise was first entered for consumption in the United States, the volume of that first shipment and any subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States. Based on

the information submitted by Ayecue, we have determined that Ayecue has met the statutory and regulatory requirements for the initiation of a NSR. The Department queried the U.S. Customs and Border Protection ("CBP") entry database to confirm that the shipment made by Ayecue had officially entered the United States via assignment of an entry date in the Customs database by CBP. In addition, the Department confirmed the existence of Ayecue and its U.S. customer.

#### Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating a NSR for Ayecue. See Memorandum to the File, from Thomas Martin, International Trade Compliance Analyst, through Abdelali Elouaradia, Director, Office 4, AD/CVD Operations, "Initiation of Antidumping Duty New Shipper Review: Certain Preserved Mushrooms from the People's Republic of China," dated March 27, 2007. We intend to issue the preliminary results of this review not later than 180 days after the date on which this review was initiated, and the final results of this review within 90 days after the date on which the preliminary results were issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(A), the period of review ("POR") for a NSR, initiated in the month immediately following the anniversary month, will be the 12-month period immediately preceding the anniversary month. Therefore, the POR for the NSR of Ayecue is February 1, 2006, through January 31, 2007.

In cases involving non-market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. See *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Accordingly, we will issue a questionnaire to Ayecue, including a separate rates section. The review will proceed if the responses provide sufficient indication that Ayecue is not subject to either *de jure* or *de facto* government control with respect to its exports of preserved mushrooms. However, if Ayecue does not demonstrate its eligibility for a separate rate, then the company will be deemed not separate from other companies that exported during the POI and the NSR will be rescinded as to the company.