



A-570-863
Administrative Review
POR: 12/1/2017 – 11/30/2018
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November 29, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review of Honey from the
People's Republic of China; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty *Order* on honey from the People's Republic of China (China).¹ The review covers Jiangsu Runchen Agricultural/Sideline Foodstuff Co., Ltd. (Runchen). The period of review (POR) is December 1, 2017 through November 30, 2018. We preliminarily find that Runchen did not make a *bona fide* sale of honey during the POR. As such, Commerce is preliminarily rescinding the administrative review.

II. BACKGROUND

On March 14, 2019, Commerce initiated an administrative review of the *Order* on honey from China in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), with respect to three companies: Runchen; Inner Mongolia Komway Import & Export Co., Ltd.; and Shenzhen Long Sheng Shang Mao Ltd.² We issued the standard non-market economy antidumping duty questionnaire to all three companies on March 14, 2019.³ On June 24, 2019, Commerce rescinded its review of two of these companies, leaving Runchen as the sole mandatory respondent in this review.⁴

¹ See *Honey from the People's Republic of China: Continuation of Antidumping Duty Order*, 83 FR 18277 (April 2, 2018); see also *Honey from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 77 FR 50464 (August 21, 2012) (collectively, *Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019) (*Initiation Notice*).

³ See Commerce's Letter, "Antidumping Duty Non-Market Economy Questionnaire," dated March 14, 2019.

⁴ See *Honey from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 29498 (June 24, 2019).



On April 12, 2019, Runchen submitted a separate rate application.⁵ Between April 11 and August 12, 2019, Runchen submitted timely responses to Commerce’s original and supplemental sections A, C, D questionnaires, and the importer-specific questionnaires.⁶ Commerce received timely submissions from the American Honey Producers Association and Sioux Honey Association (collectively, the petitioner), regarding Runchen’s initial sections C and D questionnaire responses and Runchen’s initial importer-specific questionnaire response.⁷ Runchen timely submitted rebuttal comments regarding the petitioner’s comments on the importer-specific questionnaire.⁸ We received pre-preliminary comments from the petitioner and Runchen.⁹

In accordance with 19 CFR 351.213(h)(1), the preliminary and final determination deadlines in administrative reviews are calculated based on the “last day of the anniversary month of the order or suspension agreement for which the administrative review was requested,” which for this *Order* is December 31, 2018. Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019, by 40 days.¹⁰ This review was initiated on March 13, 2019.¹¹ As a result, the time period allotted to Commerce for conducting this administrative review overlapped the tolling period by 31 days. Accordingly, Commerce tolled all deadlines by 31 days for this review.¹² On September 19, 2019, pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within the 245 days and postponed the preliminary results by 61 days.¹³ The revised deadline for the preliminary results in this review is now December 3, 2019.

⁵ See Runchen’s April 12, 2019 Separate Rate Application.

⁶ See Runchen’s April 11, 2019 Section A Questionnaire Response; see also Runchen’s May 6, 2019 Section C & D Questionnaire Response; Runchen’s June 5, 2019 Supplemental Questionnaire Response (SQR); Runchen’s June 19, 2019 Importer-Specific Questionnaire Response (ISQR); Runchen’s June 28, 2019 SQR; Runchen’s August 9, 2019 SQR; Runchen’s August 12, 2019 Supplemental ISQR;

⁷ See Petitioner’s Letter, “Administrative Review of Honey from the People’s Republic of China – New Factual Information in Rebuttal to Jiangsu Runchen’s Sections C and D Questionnaire Response,” dated May 24, 2019; see also Petitioner’s Letter, “Administrative Review of Honey from the People’s Republic of China – Petitioners’ Submission of New Factual Information to Rebut, Clarify, or Correct Information Contained in the Importer Questionnaire,” dated July 12, 2019.

⁸ See Runchen’s Letter, “Honey from the PRC: Rebuttal Comments on Petitioners’ NFI to Rebut Importer Questionnaire Response,” dated July 29, 2019.

⁹ See Petitioner’s Letter, “Honey from the People’s Republic of China – Petitioners’ Pre-Preliminary Results Comments,” dated September 17, 2019 (Petitioner’s Pre-Prelim Comments); see also Runchen’s Letter, “Honey from the People’s Republic of China: Rebuttal Comments on Petitioner’s Pre-Prelim Comments,” dated October 17, 2019.

¹⁰ See Memorandum, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 31 days.

¹¹ See *Initiation Notice*.

¹² See Memorandum, “December Order Deadlines Affected by the Partial Shutdown of the Federal Government,” dated August 7, 2019.

¹³ See Memorandum, “Honey from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated September 19, 2019.

III. SCOPE OF THE ORDER

The merchandise subject to 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 the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, {Commerce}'s written description of the merchandise under the order is dispositive. Also, included in the scope are blends of honey and rice syrup, regardless of the percentage of honey contained in the blend.

IV. DISCUSSION OF THE METHODOLOGY

The sole issue addressed in these preliminary results is whether Runchen made a reviewable sale during the POR. In this administrative review, the petitioner alleged that Runchen's single sale of subject merchandise to the United States during the POR is non-*bona fide*.¹⁴ To address this issue we conducted a *bona fide* sales analysis.

When a respondent makes a single sale during the POR, it is appropriate for Commerce to evaluate whether the sale is commercially reasonable or typical of normal business practices and, therefore, *bona fide*, in order to ensure that the respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the respondent's usual commercial practice would dictate.¹⁵ While Commerce routinely conducts a *bona fide* sales analysis in new shipper reviews using a totality of the circumstances test based on the criteria enumerated in section 751(a)(2)(B)(iv) of the Act, we have also looked to section 751(a)(2)(B)(iv) of the Act as guidance for conducting a *bona fides* analysis in administrative reviews.¹⁶ Further, the Court of International Trade has held that Commerce has the authority to conduct *bona fides* analyses in the context of an administrative review.¹⁷ Therefore, in this review, we have used as guidance for this examination the criteria laid out in section 751(a)(2)(B)(iv) of the Act to determine whether Runchen's sole sale during the POR is a *bona fide* sale. Specifically, we examined: (a) the price of the sale; (b) whether the sale was made in commercial quantities; (c) the timing of the sale; (d) the expenses arising from the transaction; (e) whether the goods were resold in the

¹⁴ See Petitioner's Pre-Prelim Comments.

¹⁵ See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1344 (CIT 2005) (citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002)).

¹⁶ See *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Final Results and Rescission of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 38948 (August 8, 2019), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁷ See, e.g., *Evonik Rexim (Nanning) Pharm. Co. v. United States*, 253 F. Supp. 3d 1364, 1370-71 (CIT 2017) (sustaining Commerce's application of the totality of the circumstances test and partial rescission of an administrative review); *Windmill Int'l Pte., Ltd. v. United States*, 193 F. Supp. 2d 1303, 1306-1307 (CIT 2002).

United States at a profit; (f) whether the transaction was made on an arm's-length basis; and (g) any other factor that Commerce considers to be relevant as to whether the sale at issue is "likely to be typical of those the exporter or producer will make after the completion of the review."¹⁸ Where Commerce finds that a sale is not *bona fide*, Commerce will exclude the sale from its dumping margin calculations,¹⁹ and if it is the only sale under review, Commerce will rescind the review.²⁰

Based on the totality of the circumstances surrounding the sole sale reported by Runchen in this administrative review, we preliminarily determine that the sale is not a *bona fide* sale. In particular, we preliminarily find a number of relevant factors including, but not limited to, the sales price and quantity, the profitability of the resold subject merchandise, the late payments, the limited number of sales (*i.e.*, one sale), and the importer/exporter experience and likelihood of future sales, indicates the sale is atypical of a sale likely to be made in the future. Because our analysis involves the discussion of business proprietary information, we have included a full discussion of our preliminary analysis in a separate *Bona Fide* Memorandum.²¹

Because we preliminarily find that the single POR sale is not a *bona fide* sale, we cannot rely on this sale to calculate a dumping margin in this administrative review. Given the determination that there was no *bona fide* sale during the POR, there is no sale upon which we can base this review. Accordingly, we are preliminarily rescinding this administrative review.

V. RECOMMENDATION

We recommend applying the above methodology for the preliminary results of review.



Agree



Disagree

11/29/2019

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

¹⁸ See section 751(a)(2)(B)(iv) of the Act; see also *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249-50 (CIT 2005) (*Tianjin Tiancheng*).

¹⁹ See *Tianjin Tiancheng*, 366 F. Supp. 2d at 1249.

²⁰ See, e.g., *Honey from the People's Republic of China: Preliminary Rescission of the Administrative Review*, 77 FR 79, 81 (January 3, 2012), unchanged in *Honey from the People's Republic of China: Final Rescission of the Administrative Review*, 77 FR 34343 (June 11, 2012).

²¹ See Memorandum, "Preliminary *Bona Fide* Sales Analysis," dated concurrently with this notice (*Bona Fide* Memorandum).