



by Troy Fore, ABF Director of Government Relations



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Judge Upholds Identification of Chinese Honey by Trace Metal Analysis

A case against illegal imports of honey from China survived a major challenge recently when a U.S. District Court decision validated U.S. Customs and Border Protection Laboratories

and Scientific Services' use of trace metal profiles in analyzing agricultural product for country of origin. In what is known as a Franks Hearing, a judge in the Western District of Washington at Seattle ruled that the findings of the CBP laboratory were sufficient probable cause to grant a valid search warrant, and the evidence collected was deemed admissible in court. A Franks Hearing is used to confirm or refute the truthfulness of a search warrant and the information used to acquire such a warrant.

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"The Franks Hearing is an important step in validating trace metal analysis to determine country of origin," said Ira Reese, executive director of CBP's Laboratory and Scientific Services. "This sets important precedent in future anti-dumping cases."

The case began when CBP's Savannah, Ga., laboratory received a number of samples of honey imported into Seattle claiming to be from either Thailand or the Philippines. Led by Savannah Laboratory Director Carson Watts, samples were tested and indicated that the honey matched the trace metal profile for honey from China.

CBP tests for country of origin based on the trace metal content of agricultural products as determined by a process known as Inductively Coupled Plasma Mass Spectrometry. Samples received are tested to determine trace metal content and compared to a database for specific country and agricultural items of interest to determine if the country of origin is the invoiced country, and if not, whether it is a country subject to anti-dumping duties.

Based in large part on the laboratory reports, federal agents secured a warrant to search the importer's premises. Defense attorneys in the honey transshipment case challenged the validity of a search warrant that was based on the laboratory analysis.

(Adapted from a CBP news release.)

ABF Joins Industry in Transshipment and Adulteration Fight

The ABF has joined with American Honey Producers Association and National Honey Packers and Dealers Association in filing statements for two Congressional hearings related to trade. In the nearly identical statements, the industry group drew attention to the problems associated with honey imports from China.

The May 20 hearing of the House Ways and Means Trade Subcommittee was focused on Customs Trade Enforcement. The Senate Finance Committee hearing on June 23 was directed at the U.S.-China Trade Relationship.

In the statement the industry said, "The ever-evolving and complex schemes devised to enter honey into the United States without paying the U.S. antidumping duty on Chinese honey imports are mind-boggling." They



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applauded “the efforts of the U.S. Immigration and Customs Enforcement (ICE) as well as U.S. Customs and Border Protection (CBP) for their dedicated efforts to combat the illicit trade in Chinese honey,” then detailed the scope of the problem and the impact on the U.S. honey industry and recommended some changes in for the committees to make as they consider a Customs Reauthorization Bill.

In addition to changes in the bonding and cash deposits required on some imports, the group asked for more attention to enforcement of antidumping and

countervailing duty laws and the development of a database of individual characteristics of honey produced in foreign countries to facilitate the verification of country of origin markings of imported honey.

The honey group said all this would be profitable for the federal government by collecting \$900 million in uncollected duties they estimate is owed to the U.S. Treasury on honey, mushrooms, crawfish and garlic imports.



Sen. Schumer Draws Media Attention to China Honey Trade

A statement released by Sen. Charles Schumer (D-NY) has drawn the attention of multiple media outlets to the issue of “honey laundering” relative to honey imports from China.

In a statement released in conjunction with his appearance before a hearing of the U.S.-China Economic and Security Review Commission (USCC) on June 9, Schumer called on the U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP) and the U.S. Food and Drug Administration (FDA) to crack down on “honey launderers.”

“This is just one more example of China playing by its own rules to the detriment of every else,” said Schumer. “Instead of simply selling their product in a fair and competitive way, the Chinese are using illegal, backdoor deliveries and mislabeling their product to accomplish their goal. Today I am calling on the federal government to issue a stinging rebuke to these practices, and once again level the playing field.”

In a letter to FDA Commissioner Margaret Hamburg, Schumer expressed concern that FDA “has yet to issue a national standard of identity for pure honey. Such a standard would be a critical tool in promoting truth in labeling, and provide a basis for enforcement actions by State and Federal agencies against those responsible for imports of mislabeled or adulterated honey.”

Media outlets across the country picked up the story. Wall Street Journal’s wsj.com headlined a piece: “A Bee in Schumer’s Bonnet: Honey Laundering.” Radio station WHBL in Sheboygan, Wis., posted a localized version on its website: “Schumer Proposal Could Help WI Honey Markers.”

Schumer constituent Ron Phipps, of CPNA Global in Jericho, N.Y., brought the issue to the attention of Schumer’s staff. Phipps made several trips to Washington to work on this and was in the capitol for the USCC hearing. The USCC is charged with monitoring the national security implications of the bilateral trade and economic relationship between the United States and the China and making an annual report to the federal government. More information is available at uscc.gov.

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