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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P.Q. Docket No. 05-0001
)
Maersk Sealand,)
)
Respondent) Consent Decision
)
)

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.)(Act) and the regulations promulgated thereunder (7 C.F.R. §§ 319.56 et seq. and §§ 330.105 et seq.)(regulations), by a Complaint filed on October 7, 2004, and an Amended Complaint filed on December 21, 2004, by the Acting Administrator of the Animal and Plant Health Inspection Service, the Complainant, alleging that the respondent violated the Act and regulation promulgated thereunder (7 C.F.R. §§ 319.56 et seq. and §§ 330.105 et seq.)(regulations). The Complainant and the respondent have agreed that this proceeding should be terminated by entry of this Consent Decision, and have agreed to the following stipulations:

1. For the purpose of this Consent Decision only, respondent specifically admits that the Secretary of the United States Department of Agriculture has jurisdiction in this matter, neither admits nor denies the remaining allegations in the Complaint or the Amended Complaint, admits to the Findings of Fact set forth below but does not admit to violating any of the Statutes or regulations as alleged in the Complaint or the Amended Complaint, and waives:

- (a) Any further procedure;

(b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof; and

(c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision.

2. The respondent also stipulates and agrees that the United States Department of Agriculture is the “prevailing party” in this proceeding and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. §§ 504 et seq.) for fees and other expenses incurred by the respondent in connection with this proceeding.

Findings of Fact

1. A.P. Moller-Maersk A/S (a.k.a. and d.b.a. “Maersk Line” and formerly a.k.a. and d.b.a. “Maersk Sealand”), hereinafter referred to as respondent, is a corporation with an office and principal place of business at Copenhagen, Denmark. Maersk, Inc. is a corporation acting as general agent in the United States for “Maersk Line” and formerly “Maersk Sealand,” with an office and principal place of business at 2 Giralda Farms, Madison Ave., P.O. Box 880, Madison, NJ 07940-0880.

2. On or about January 2, 2001, the respondent transported a shipment of two containers (container # MAEU8180863 [Bill of Lading MAEUTMA008778] and container # CLHU8131267 [Bill of Lading MAEUTMA008777]) each containing 1830

6. On or about January 2, 2001, the respondent transported a shipment of two containers (container # MAEU8180863 [Bill of Lading MAEUTMA008778] and container # CLHU8131267 [Bill of Lading MAEUTMA008777]) each containing 1830 bags of cocoa shells imported from Africa via Spain and brought the shipment into the United States at the port of first arrival in Houston, Texas, and moved the shipment from the port of first arrival before the shipment was inspected and appropriately released.

7. On or about May 22, 2001, the respondent transported a shipment of a container (container # SEAU4678221 [Bill of Lading MAEUANTL31537]) from the Netherlands and brought the shipment into the United States at the port of first arrival in Houston, Texas, and failed to have the shipment inspected at the port of first arrival and also failed to ensure that the shipment received proper release by a USDA inspector at the port of first arrival.

8. On or about May 22, 2001, the respondent transported a shipment of a container (container # SEAU4678221 [Bill of Lading MAEUANTL31537]) from the Netherlands and brought the shipment into the United States at the port of first arrival in Houston, Texas, and failed to have the shipment inspected at the port of first arrival.

9. On or about May 22, 2001, the respondent transported a shipment of a container (container # SEAU4678221 [Bill of Lading MAEUANTL31537]) from the Netherlands and brought the shipment into the United States at the port of first arrival in Houston, Texas, and failed to offer the shipment for entry at the port of first arrival.

10. On or about May 22, 2001, the respondent transported a shipment of a container (container # SEAU4678221 [Bill of Lading MAEUANTL31537]) from the Netherlands and brought the shipment into the United States at the port of first arrival in

Houston, Texas, and moved the shipment from the port of first arrival before the shipment was inspected and appropriately released.

11. On or about June 15, 2001, the respondent transported a shipment of two containers (containers # USNG2002150 and USNG2002309 [Bill of Lading MAEUNAPU02162 for both containers]) from Spain and brought the shipment into the United States at the port of first arrival in Houston, Texas, and failed to follow required procedures at the port of first arrival to prevent the dissemination of pests that were found in the shipment that was on hold at the port of first arrival, awaiting identification of the pests before fumigation.

12. On or about August 23, 2002, the respondent transported a shipment of 12 crates (weighing a total of approximately 15,000 lbs.) of tiles (e.g. natural stones or other calcareous [limestone] stones) (container # HDMU2357920 [Bill of Lading # HDMUHBWB0017656]) from Germany and brought the shipment into the United States at the port of first arrival Port Everglades (Ft. Lauderdale), FL, and moved the shipment from the port of first arrival before the shipment was inspected and appropriately released..

13. On or about October 2, 2003, the respondent imported a shipment of approx. 1070 boxes or crates of tiles (weighing a total of approximately 21,500 kgs.) (container # GATU0475807 [Bill of Lading # MAEUVC1087168]) from Spain and brought the shipment into the United States at the port of first arrival, the Port of Miami (Miami), FL, and moved the shipment from the port of first arrival before the shipment was inspected and appropriately released.

14. On or about October 2, 2003, the respondent imported a shipment of approx. 1070 boxes or crates of tiles (weighing a total of approximately 21,500 kgs.) (container # GATU0475807 [Bill of Lading # MAEUVC1087168]) from Spain and brought the shipment into the United States at the port of first arrival, the Port of Miami (Miami), FL, and failed to follow required procedures at the port of first arrival to prevent the dissemination of pests that were found in the shipment that was on hold at the port of first arrival, awaiting identification of the pests before fumigation.

15. On or about October 29, 2003, the respondent imported a shipment of 3264 boxes of papaya (weighing a total of approximately 15,800 kgs.) (container # MWCU6145990 [Bill of Lading # MAEUSSAI07545]) from Brazil and brought the shipment into the United States at the port of first arrival, the Port of Miami (Miami), FL, and moved the shipment from the port of first arrival before the shipment was inspected and appropriately released.

16. On or about October 29, 2003, the respondent imported a shipment of 3264 boxes of papaya (weighing a total of approximately 15,800 kgs) (container # MWCU6145990 [Bill of Lading # MAEUSSAI07545]) from Brazil and brought the shipment into the United States at the port of first arrival, the Port of Miami (Miami), FL, and failed to follow required procedures at the port of first arrival to prevent the dissemination of pests that were found in the shipment that was on hold at the port of first arrival, awaiting identification of the pests before fumigation.


Conclusions


The respondent has admitted the jurisdictional facts and has agreed to the following Order in full and final disposition of this proceeding and any and all violations arising from and/or in connection with the Findings of Fact as set forth above and the facts and circumstances as alleged in the Complaint and Amended Complaint; therefore, this Consent Decision will be issued.

Order

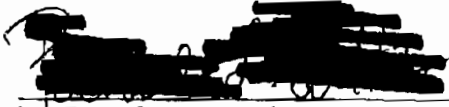
The respondent, A.P. Moller-Maersk A/S (a.k.a. and d.b.a. "Maersk Line" and formerly a.k.a. and d.b.a. "Maersk Sealand"), is assessed a civil penalty of twenty-eight thousand dollars (\$28,000.00) in full and final disposition of this proceeding and any and all violations arising from and/or in connection with the Findings of Fact as set forth above and the facts and circumstances as alleged in the Complaint and Amended Complaint. The respondent and/or its attorneys shall send a certified check or money order for twenty-eight thousand dollars (\$28,000.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, Field Servicing Office, Accounting Section, P.O. Box 3334, Minneapolis, Minnesota 55403, within thirty (30) days from the effective date of this Order. The certified check or money order should include the docket number of this proceeding, namely, P.Q. Docket No. 05-0001.

This Order shall become effective when served on the respondent and/or its attorneys.


by: Massoud Messkoub
Maersk Inc. as U.S. general agent
for A.P. Moller-Maersk A/S
Respondent

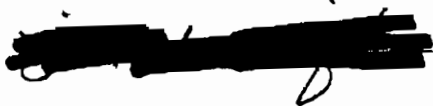

James A. Booth
Attorney for Complainant

and


by: Pamela L. Schultz
Attorney for A.P. Moller-Maersk A/S
Respondent

Issued this 12 day of June, 2006

at Washington, D.C.


Jill S. Clifton
Administrative Law Judge