

or their representatives, who are parties to the investigations.

Background

On November 26, 1996, a petition was filed with the Commission and the Department of Commerce by the Paslode Division of Illinois Tool Works Inc., Vernon Hills, IL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of collated roofing nails from China, Korea, and Taiwan. Accordingly, effective November 26, 1996, the Commission instituted antidumping Investigations Nos. 731-TA-757-759 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of December 4, 1996 (61 FR 64364). The conference was held in Washington, DC, on December 17, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 10, 1997. The views of the Commission are contained in USITC Publication 3010 (January 1997) entitled "Collated Roofing Nails from China, Korea, and Taiwan: Investigations Nos. 731-TA-757-759 (Preliminary)."

Issued: January 14, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 97-1640 Filed 1-22-97; 8:45 am]

BILLING CODE 7020-02-P

[Inv. No. 337-TA-334]

Notice of Commission Determination to Review in Part an Initial Determination; Schedule for the Filing of Written Submissions on the Issue Under Review, and on Remedy, the Public Interest, and Bonding

In the Matter of certain condensers, parts thereof and products containing same, including air conditioners for automobiles.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the initial determination (ID)

issued by the presiding administrative law judge (ALJ) on December 2, 1996, in the above-captioned investigation. The ID found a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3104.

SUPPLEMENTARY INFORMATION: On December 12, 1991, Modine Manufacturing Co. filed a complaint with the Commission alleging a violation of section 337 by respondents Showa Aluminum Corporation, Showa Aluminum Corporation of America, Mitsubishi Motors Corporation, Mitsubishi Motors Sales of America, Mitsubishi Heavy Industries, Ltd., and Mitsubishi Heavy Industries America, Inc. (collectively referred to herein as respondents). Modine alleged that the respondents had infringed claims of Modine's patent, U.S. Letters Patent 4,998,580 (the '580 patent). The investigation was assigned an ALJ, who determined that there was no infringement, either literally or under the doctrine of equivalents, by the respondents. The ALJ further determined that the patent was invalid and unenforceable due to inequitable conduct. On July 30, 1993, the Commission reversed the ALJ's findings of invalidity and inequitable conduct, but adopted her findings and conclusions on the infringement issues.

Modine appealed the Commission's finding of no infringement, and thus no violation of section 337, to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). In the same appeal, the respondents challenged the Commission's findings upholding the validity and enforceability of the '580 patent. On February 5, 1996, the Federal Circuit reversed the Commission's claim interpretation and remanded the investigation to the Commission for redetermination of the issues of literal infringement and infringement under the doctrine of equivalents. *Modine Manufacturing Co. v. U.S.I.T.C.*, 75 F.3d 1545, 1549 (Fed. Cir. 1996). The court affirmed the Commission's determination in all other respects. *Id.*

On May 31, 1996, the Commission issued an order remanding the Condensers investigation to the Office of Administrative Law Judges. The order provided that the presiding ALJ conduct further proceedings in accordance with the Federal Circuit's decision in *Modine* and issue an ID on violation, preferably within six months. The Commission's order also directed the ALJ to issue a recommended determination (RD) on the issues of remedy and bonding two

weeks after the ID issued. On December 2, 1996, the ALJ issued an ID finding a violation of section 337 by respondents. On December 12, 1996, respondents and the Commission investigative attorney (IA) filed separate petitions for review. Complainant Modine filed a petition for review contingent on the Commission's decision either to grant another party's petition for review or to review the ID on its own motion. All parties filed responses to each petition on December 19, 1996. The ALJ issued his RD on remedy and bonding on December 16, 1996.

Having examined the record in this investigation, including the ID, the Commission has determined to review the reasoning supporting the ALJ's finding that the proper estoppel point for the Cat condenser is 0.04822 inch. The Commission has determined not to review the ID in all other respects. On review, the Commission will consider whether the 0.04822 inch measurement is properly considered law of the case, given that the Commission's previous finding that the Cat condenser's hydraulic diameter was 0.04822 inch was affirmed by the Federal Circuit when it affirmed the Commission's findings on the scope and content of the prior art. *Modine*, 75 F. 3d at 1549.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see the Commission Opinion in *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are

subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issue under review. The submissions should be concise and thoroughly referenced to the record in this investigation, including, where necessary, references to specific exhibits and testimony. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the December 16, 1996, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on January 30, 1997. Reply submissions must be filed no later than the close of business on February 6, 1997. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 C.F.R. 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All

nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.45-.51 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.45-.51).

Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E. Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810.

Issued: January 16, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 97-1638 Filed 1-22-97; 8:45 am]

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[Investigation No. 731-TA-749 (Final)]

Persulfates From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-749 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of persulfates, provided for in subheadings 2833.40.20 and 2833.40.60 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

¹ For purposes of this investigation, Commerce has defined the subject merchandise as persulfates, including ammonium, potassium, and sodium persulfates. The chemical formulae for these persulfates are, respectively, (NH₄)₂S₂O₈, K₂S₂O₈, and Na₂S₂O₈.

E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.
EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-205-3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov> or <ftp://ftp.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of persulfates from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 11, 1996, by FMC Corporation, Chicago, IL.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO