

Background

The Commission instituted these investigations effective November 5, 1996, following receipt of a petition filed with the Commission and the Department of Commerce by Geneva Steel Co., Provo, UT, and Gulf States Steel, Inc., Gadsden, AL. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of cut-to-length carbon steel plate from China, Russia, South Africa, and Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing 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 August 20, 1997 (62 FR 44287). The hearing was held in Washington, DC, on October 28, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on December 11, 1997. The views of the Commission are contained in USITC Publication 3076 (December 1997), entitled "Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine: Investigations Nos. 731-TA-753-756 (Final)."

Issued: December 11, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-358]

Notice of Commission Determination to Terminate the Investigation Based on Withdrawal of the Complaint; Vacatur of Alternative Findings; Denial of Respondents' Motion to Terminate; Denial of Motions for Leave to File Reply Briefs

In the matter of: Certain Recombinantly Produced Human Growth Hormones.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation on the basis of complainant's motion to withdraw its complaint and to vacate the alternative findings on the merits made by the presiding administrative law judge (ALJ) in his initial determination (ID) of November 29, 1994. The Commission has also determined to deny certain respondents' motion for termination of the investigation, as well as the various motions for leave to file reply briefs.

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

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 29, 1993, based on a complaint filed by Genentech, Inc. of South San Francisco, California. 58 FR 50954. Six firms were named as respondents, *i.e.*, Novo Nordisk 2 A/S of Denmark; Novo Nordisk of North America, Inc. of New York; Novo Nordisk Pharmaceuticals, Inc. of New Jersey; ZymoGenetics, Inc. of Seattle, Washington (collectively, "Novo"); Biotechnology General Corp. of New York; and Bio-Technology General Corp. (Israel) Ltd. (collectively, "BTG").

On November 29, 1994, the presiding ALJ issued an ID dismissing the complaint and terminating the investigation as a sanction for complainant's alleged misconduct in withholding certain documents during discovery. In the alternative, the ALJ reached the merits of the investigation, finding that there would have been a violation of section 337 based on the record as it closed on April 24, 1994, although noting that the record was incomplete because of complainant's conduct. On January 17, 1995, the Commission decided not to review the portion of the ID that dismissed the complaint as a sanction for discovery abuse, but took no position on the portion of the ID that found a violation of section 337 based on an incomplete record. 60 FR 4923 (January 25, 1995). Genentech appealed the Commission's determination to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). On August 14, 1997, the Federal Circuit reversed the Commission's decision to dismiss the investigation as a sanction and remanded the investigation to the Commission. *Genentech, Inc. v. USITC*, 43 USPQ2d 1722 (Fed. Cir. 1997). The court issued its mandate on September 4, 1997.

On September 22, 1997, Novo filed a motion to terminate the investigation with a finding of no violation based on certain findings adverse to Genentech that were made in the ALJ's ID of November 29, 1994, and on an unrelated intervening Federal Circuit decision concerning one of the patents asserted by Genentech in the Commission investigation. On September 30, 1997, BTG responded to Novo's motion that it had no objection to withdrawal of the complaint. On October 2, 1997, Genentech opposed Novo's motion and filed its own motion to terminate the investigation based on its withdrawal of its complaint. On October 4, 1997, the Commission investigative attorney (IA) opposed Novo's motion to terminate. On October 14, 1997, the IA supported Genentech's motion to withdraw. Between October 4 and October 30, 1997, the private parties filed four motions for leave to file additional briefs replying to the response briefs.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission interim rule 210.51, 19 CFR 210.51 (1994).

Copies of the public version of the ALJ's 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 on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov> or <ftp://ftp.usitc.gov>).

Issued: December 11, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act ("CAA")

Notice is hereby given that a proposed Consent Decree in *United States v. Barber & Sons Tobacco Company, d.b.a. Barber & Sons Aggregates*, Civil Action No. 97-1540-CV-W-2, was lodged on November 25, 1997, with the United