

Dated: January 8, 1999.

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[FR Doc. 99-1280 Filed 1-20-99; 8:45 am]

BILLING CODE 4310-32-M

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-403]

### Certain Acesulfame Potassium and Blends and Products Containing Same; Notice of Commission Determinations Not To Review an Initial Determination Finding No Violation of Section 337 of the Tariff Act of 1930 and Not To Review an Order Denying a Motion for Sanctions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has made a final determination of no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission determined not to review an initial determination (ID) of the presiding administrative law judge (ALJ) finding no violation of section 337 and not to review ALJ Order No. 23 which denied a motion for sanctions.

**FOR FURTHER INFORMATION CONTACT:** Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3098. Hearing-impaired persons are advised that information on this 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>).

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on November 14, 1997, based on a complaint filed by Nutrinova Nutrition Specialties and Food Ingredients GmbH of Frankfurt am Main, Federal Republic of Germany, and Nutrinova Inc., of Somerset, New Jersey (collectively referred to as "complainants"). 62 FR 62070 (1997). The complaint named four respondents—Hangzhou Sanhe Food Company Ltd., of Zhejiang, People's Republic of China; JRS International, Inc., of Garfield, New Jersey; Dingsheng, Inc., of Temple City, California; and WYZ Tech., of Chino, California. Hangzhou Sanhe Food

Additives Factory, of Hangzhou, Zhejiang, Peoples Republic of China was subsequently added as a respondent.

Complainants alleged that respondents had violated section 337 by importing into the United States, selling for importation, and/or selling within the United States after importation certain acesulfame potassium or blends or products containing same by reason of infringement of claims 1, 2, 3, 4 or 5 of U.S. Letters Patent 4,695,629 ("the '629 patent") or claims 1 or 2 of U.S. Letters Patent 4,158,068 ("the '068 patent"). Acesulfame potassium is an artificial sweetener.

The ALJ held a tutorial on the technology of artificial sweeteners and the processes for their manufacture on June 5, 1998. The evidentiary hearing was held from June 29, 1998, to July 10, 1998.

On May 12, 1998, complainants filed a motion seeking the imposition of monetary and non-monetary sanctions against respondents for respondents' failure to provide timely discovery. The motion was supported in part and opposed in part by the Commission investigative attorney (IA) and opposed by respondents. On August 14, 1998, the ALJ issued Order No. 23, denying complainants' motion for sanctions, but offering complainants an opportunity to seek reopening of the record for the purpose of presenting additional facts and arguments relevant to respondents' belatedly-produced discovery. Complainants declined to seek reopening of the record.

On November 20, 1998, the ALJ issued his final ID, in which he concluded that there was no violation of section 337, based on the following findings: (a) claims 1-5 of the '629 patent are not infringed by respondents' accused process; (b) claims 1-2 of the '068 patent are invalid as obvious over the prior art; (c) claims 1-2 of the '068 patent are not infringed by respondents accused product.

On December 3, 1998, complainants filed a petition for review of the ID and Order No. 23, arguing that the ALJ erred in all of his adverse findings relating to failure to impose sanctions and in his infringement analysis of the '629 patent. Complainants did not petition for review of the findings in the ID with respect to the '068 patent. The IA also petitioned for review of the ID and Order No. 23 on policy grounds. On December 10, 1998, respondents filed a response to the petitions for review. The IA also filed a response to complainants' petition for review.

The authority for the Commission's determinations is contained in section

337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR § 210.42). Copies 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.

By order of the Commission.

Issued: January 15, 1999.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99-1341 Filed 1-20-99; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-149 (Review)]

### Barium Chloride From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on barium chloride from China.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on barium chloride from China would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: January 7, 1999.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Noreen (202-205-3167), 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-