

for in subheading 3204.17.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by January 5, 2004. The Commission's views are due at Commerce within five business days thereafter, or by January 12, 2004.

For further information concerning the conduct of these investigations 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 and B (19 CFR part 207).

**EFFECTIVE DATE:** November 21, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Olympia Hand (202-205-3182), 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>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted in response to a petition filed on November 21, 2003, by Nation Ford Chemical Co., Fort Mill, SC, and Sun Chemical Corp., Fort Lee, NJ.

*Participation in the investigations and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in

oleoresins, flammable solvents, water) are not included in these investigations.

Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 12, 2003, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202-205-3182) not later than December 9, 2003, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 17, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules

(19 CFR 201.18) (*see Handbook for Electronic Filing Procedures, ftp://ftp.usitc.gov/pub/reports/electronic\_filing\_handbook.pdf*).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: November 21, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-489]

### In the Matter of Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, Such as Sildenafil Citrate, and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Finding a Violation of Section 337 and That the Domestic Industry Requirement Is Met; Schedule for Written Submissions on Remedy, Public Interest, and Bonding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 19) issued by the presiding administrative law judge ("ALJ") finding a violation of section 337 and that the domestic industry requirement has been met in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:**

Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3090. Copies of all 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, SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 6, 2003, based on a complaint filed by Pfizer, Inc. ("Pfizer") of New York, New York. 68 FR 10749 (March 6, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain sildenafil or any pharmaceutically acceptable salt thereof, including sildenafil citrate, and products containing same by reason of infringement of claims 1-5 of Pfizer's U.S. Patent No. 5,250,534 ("the '534 patent").

Fifteen respondents were named in the Commission's notice of investigation. Of these, eleven were found to be in default. Two other respondents were never found to have been served with the complaint and notice of investigation, and have not otherwise participated in the investigation. Another respondent has been terminated from the investigation on the basis of a settlement agreement. One respondent is the subject of a motion to terminate the investigation on the basis of a consent order, which the ALJ has granted and which is currently before the Commission.

On October 6, 2003, Pfizer filed a motion pursuant to Commission rule 210.18 (19 CFR 210.18) for summary determination on the issues of the existence of a domestic industry and violation of section 337. Pfizer's motion sought a general exclusion order and a cease and desist order against respondent #1 Aabaaca Viagra LLC ("Aabaaca"). On October 16, 2003, the Commission investigative attorney filed a response in support of Pfizer's motion. No other responses to the motion were filed.

On October 27, 2003, the ALJ issued the subject ID finding that Pfizer has demonstrated that there is a violation of section 337 by reason of the defaulting respondents' importation and sale of sildenafil, sildenafil salts, or sildenafil products that infringe one or more of

claims 1-5 of the '534 patent. He also found the domestic industry requirement satisfied. As to remedy, the ALJ found that the legal framework for considering whether to issue a general exclusion order in the circumstances of this case is section 337(g)(2), not section 337(d)(2). He recommended the issuance of a general exclusion order, but did not recommend the issuance of a cease and desist order against respondent Aabaaca. He also recommended that the bond permitting temporary importation during the Presidential review period be set at 100 percent of entered value. No party petitioned for review of the ID.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or issue one or more 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, it should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion). The Commission considers the question of remedy to include the ALJ's finding that the legal framework for considering whether to issue a general exclusion order in the circumstances of this case is section 337(g)(2), not section 337(d)(2).

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 in this investigation include the effect that a remedial order 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 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, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Such submissions should address the October 27, 2003, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed orders for the Commission's consideration. The written submissions and proposed orders must be filed no later than close of business on December 12, 2003. Reply submissions, if any, must be filed no later than the close of business on December 19, 2003. No further submissions on these issues 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 section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought 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, 19 U.S.C. 1337, and section 210.42 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42.

Issued: November 24, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary.*

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