

Alternatives to the proposed action of a permanent restriction to public access include ending the indefinite road closure at some as yet to be determined time, reopening the road on a partial basis, and a no action alternative which would reopen the road to the level of access in place prior to the February 2003 indefinite closure. That level of access included restrictions such as closing the road overnight and allowing no trucks at any time.

If special assistance is required at the scoping meetings, contact Mr. Robert Schroeder, Reclamation, at (916) 989-7274. Please notify Mr. Schroeder as far in advance of the meetings as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at (916) 989-7285.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: March 10, 2004.

**Frank Michny,**

*Regional Environmental Officer, Mid-Pacific Region.*

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-487]

### **Certain Agricultural Vehicles and Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Finding a Violation of Section 337; Schedule for Written Submissions on Remedy, the Public Interest, and Bonding**

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade

Commission has decided not to review the presiding administrative law judge's ("ALJ's") final initial determination ("ID") finding a violation of section 337 of the Tariff Act of 1930 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 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, 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-ON-LINE) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on February 13, 2003, based on a complaint filed by Deere & Company ("Deere") of Moline, Illinois. 68 FR 7388 (February 13, 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 agricultural vehicles and components thereof by reason of infringement and dilution of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; 1,503,576; and 91,860.

On August 27, 2003, the Commission issued notice that it had determined not to review Order No. 14, granting complainant's motion to amend the complaint and notice of investigation to add U.S. Trademark Registration No. 2,729,766.

On November 14, 2003, the Commission issued notice that it had determined not to review Order No. 29, granting complainant's motion for summary determination that complainant had met the technical prong of the domestic industry requirement.

Twenty-four respondents were named in the Commission's notice of investigation. Several of these have been terminated from the investigation on the basis of consent orders. Several other

respondents have been found to be in default.

On January 13, 2004, the ALJ issued his final initial determination ("ID") finding a violation of section 337. He also recommended the issuance of remedial orders. Two groups of respondents have petitioned for review of the ID. Complainant and the Commission investigative attorney filed oppositions to those petitions.

On February 18, 2004, the Commission issued notice that it had decided to extend the time to determine whether to review the ID to March 29, 2004, and to extend the target date for completing the investigation to May 13, 2004.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the oppositions thereto, the Commission has determined not to review the final 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 (2) 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, the party 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).

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:* Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the January 13, 2004, 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 close of business on April 12, 2004. Reply submissions must be filed no later than the close of business on April 19, 2004. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. 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 § 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.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.43–210.44 of the Commission's Rules of Practice and Procedure (19 CFR 210.43–210.44).

Issued: March 30, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–7571 Filed 4–2–04; 8:45 am]

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## **INTERNATIONAL TRADE COMMISSION**

[Inv. No. 337–TA–493]

### **Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect to Three Respondents on the Basis of a Settlement Agreement**

**AGENCY:** 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”) of the presiding administrative law judge (“ALJ”) granting the joint motion of complainants Energizer Holdings, Inc. and Eveready Battery Co., Inc., and respondents GP Batteries, International, Ltd., GPI, International, Ltd., and Gold Peak Industries (North America), Inc. to terminate the above-captioned investigation with respect to those three respondents on the basis of a settlement agreement.

#### **FOR FURTHER INFORMATION CONTACT:**

Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3041. 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, SW., Washington, DC 20436, telephone (202) 205–2000. 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>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 27, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Co., Inc., both of St.

Louis, MO, 68 FR 32771 (2003). The complaint as amended alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1–12 of U.S. Patent No. 5,464,709. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The Commission named as respondents 26 companies located in the United States, China, Indonesia, and Japan.

On February 4, 2004, complainants and respondents GP Batteries, International, Ltd., GPI, International, Ltd., and Gold Peak Industries (North America), Inc. (collectively the “Gold Peak Respondents”) filed a joint motion to terminate the investigation as to the Gold Peak Respondents on the basis of settlement agreement. On February 17, 2004, the Commission investigative attorney filed a response supporting the motion. On February 17, 2004, a group of nine Chinese battery companies that are also respondents (“Chinese Respondents”) in the investigation filed a response in opposition to the motion to terminate. They opposed termination of the Gold Peak Respondents because they contended that the settlement agreement did not contain all the terms of the settlement, and therefore the settlement agreement did not comply with Commission rule 210.21(b)(1). They also contended that the settlement agreement is anticompetitive and interferes with the administration of justice because there were some unresolved ethical issues concerning the Gold Peak Respondents' attorney.

On March 3, 2004, the ALJ issued the subject ID (Order No. 125) terminating the investigation as to the Gold Peak Respondents on the basis of a settlement agreement. He indicated that the settlement agreement complies with Commission rule 210.21(b)(1). He found that, although the settlement agreement indicates that the parties will try to negotiate a license agreement, there are no other agreements between the Gold Peak Respondents and complainants at this time. The ALJ further noted the Chinese Respondents' arguments concerning anticompetitive effects and some unresolved ethical issues concerning the Gold Peak Respondent's attorney, but he indicated that he did not find that either constituted the extraordinary circumstances that would warrant denying the motion to terminate.