

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–692 and 731–
TA–1628 (Preliminary)]

Certain Pea Protein From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International
Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–692 and 731–TA–1628 (Preliminary) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether there is a reasonable indication that 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 imports of certain pea protein from China, provided for in subheadings 3504.00.10, 3504.00.50, and 2106.10.00 of the Harmonized Tariff Schedule of the United States,¹ that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by August 28, 2023. The Commission’s views must be transmitted to Commerce within five business days thereafter, or by September 5, 2023.

DATES: July 12, 2023.

FOR FURTHER INFORMATION CONTACT:

Tyler Berard (202–205–3354), 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 (<https://www.usitc.gov>). The public record for these investigations may be viewed on

the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on July 12, 2023, by PURIS Proteins LLC, Minneapolis, Minnesota.

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 and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

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 Commission antidumping duty and countervailing duty 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 Office of Investigations will hold an in-person staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on August 2, 2023. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before July 31, 2023. Please provide an email

address for each conference participant in the email. Information on conference procedures, format, and participation will be available on the Commission’s Public Calendar. A nonparty who has testimony that may aid the Commission’s deliberations may request permission to participate by submitting a short statement.

Please note the Secretary’s Office will accept only electronic filings during this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

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 5:15 p.m. on August 7, 2023, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on August 1, 2023. All written submissions must conform with the provisions of section 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s Handbook on Filing Procedures, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

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.

Certification.—Pursuant to section 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter’s knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or

¹ Subject merchandise may also be reported under HTSUS statistical reporting number 2308.00.9890.

reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

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.

By order of the Commission.

Issued: July 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023-15196 Filed 7-17-23; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1209 (Rescission)]

Certain Movable Barrier Operator Systems and Components Thereof; Notice of Commission Decision To Institute a Rescission Proceeding and To Rescind the Remedial Orders; Termination of the Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a rescission proceeding and to rescind the remedial orders issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT:

Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.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: On August 10, 2020, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed by Overhead Door Corporation of Lewisville, Texas and GMI Holdings Inc. of Mount Hope, Ohio (collectively, "Overhead Door"). See 85 FR 48264-65 (Aug. 10, 2020). The complaint, as supplemented, alleged a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain movable barrier operator systems and components thereof by reason of infringement of U.S. Patent Nos. 8,970,345 ("the '345 patent"); 7,173,516 ("the '516 patent"); 7,180,260 ("the '260 patent"); 9,483,935 ("the '935 patent"); 7,956,718 ("the '718 patent"); and 8,410,895 ("the '895 patent"). See *id.* The notice of investigation named The Chamberlain Group, Inc. (now, The Chamberlain Group, LLC) of Oak Brook, Illinois ("Chamberlain") as the respondent in this investigation. See *id.*

On February 10, 2021, the Commission terminated the investigation as to the '516 patent based on the withdrawal of the allegations in the complaint as to that patent. See Order No. 10 (Jan. 19, 2021), *unreviewed* by Comm'n Notice (Feb. 10, 2021).

On February 9, 2022, the Commission issued a final determination finding a violation of section 337, based on Chamberlain's infringement of the asserted claims of the '935, '718, and '895 patents, but not the '345 and '260 patents. See 87 FR 8605-06 (Feb. 15, 2022). The Commission further determined to: (1) issue a limited exclusion order against Chamberlain's infringing products and a cease and desist order against Chamberlain (collectively, the "remedial orders"); and (2) set a bond during the period of Presidential review in the amount of one hundred (100) percent of the entered value of the infringing articles. See *id.* On March 30, 2022, the Commission issued modified remedial orders to confirm that the covered products or articles in the remedial orders include garage door openers, gate operators, and commercial operators. See 87 FR 19709-10 (Apr. 5, 2022).

On April 11 and 12, 2022, respectively, Overhead Door and Chamberlain filed appeals from the Commission's final determination with the U.S. Court of Appeals for the Federal Circuit. See *Chamberlain Grp., LLC v. ITC*, Appeals Nos. 22-1664, 22-1656 (consolidated).

On August 5, 2022, the Commission instituted an enforcement proceeding

under Commission Rule 210.75 (19 CFR 210.75) to investigate alleged violations of the remedial orders by Chamberlain's legacy and redesigned products. See 87 FR 48039 (Aug. 5, 2022). In addition to Overhead Door and Chamberlain (collectively, "the Private Parties"), the Office of Unfair Import Investigations was also named as a party to the enforcement proceeding. See *id.*

On December 21, 2022, the Commission terminated the enforcement proceeding as to the '718 patent based on withdrawal of the enforcement complaint as to that patent. See Order No. 14 (Dec. 1, 2022), *unreviewed* by Comm'n Notice (Dec. 21, 2022).

On June 13, 2023, the parties filed a joint stipulation of voluntary dismissal of the appeals. On June 14, 2023, the Federal Circuit dismissed the appeals. See *Chamberlain Grp., LLC v. ITC*, Order, Appeal No. 22-1664, ECF No. 95 (Fed. Cir. June 14, 2023).

On June 13, 2023, the Private Parties jointly moved to terminate the enforcement proceeding based on settlement. On June 14, 2023, the Administrative Law Judge issued an initial determination (Order No. 26) granting the joint motion to terminate the enforcement proceeding based on settlement.

Also on June 13, 2023, the Private Parties filed a joint petition to rescind the remedial orders (original and modified) based on the settlement agreement.

In view of the settlement agreement between the Private Parties, the Commission finds that the conditions justifying the remedial orders no longer exist, and therefore, granting the petition is warranted under 19 U.S.C. 1337(k) and 19 CFR 210.76. Accordingly, the Commission has determined to institute a rescission proceeding and to rescind the remedial orders (original and modified). The rescission proceeding is terminated.

The Commission's vote on this determination took place on July 12, 2023.

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 part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 12, 2023.

Lisa Barton,

Secretary to the Commission.

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