

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN RUBBER ANTIDEGRADANTS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-533 (Remand)

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO SOVEREIGN
CHEMICAL COMPANY ON THE BASIS OF A SETTLEMENT AGREEMENT AND
CONSENT ORDER; ISSUANCE OF CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has (1) determined not to review an initial determination (“ID”) (Order No. 35) terminating the above-identified investigation as to Sovereign Chemical Company (“Sovereign”) based on a settlement agreement and consent order and (2) issued a consent order directed to Sovereign.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential 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. 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 this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 29, 2005, based on a complaint brought by Flexsys America L.P. (“Flexsys”), alleging a violation of section 337 in the importation, the sale for importation, or the sale after importation of certain rubber antidegradants, components thereof, or products containing same with respect to claims 30 or 61 of U.S. Patent No. 5,117,063 (“the ‘063 patent”), or claims 7 or 11 of U.S. Patent No. 5,608,111 (“the ‘111 patent”), or claims 1, 32, or 40 of U.S. Patent No. 6,140,538 (“the ‘538 patent”). 70 *Fed. Reg.* 15,855 (Mar. 29, 2005).

The complaint named as respondents Sinorgchem Co. (“Sinorgchem”) of Shandong, China, as well as Sovereign, Korea Kumho Petrochemical Co., Ltd. (“KKPC”), Vilax Corporation (“Vilax”), and Stolt-Nielson Transportation Group Ltd. (“Stolt-Nielson”). The investigation was terminated with regard to the ‘538 patent, and with regard to Vilax and Stolt-Nielson.

On February 16, 2006, the presiding administrative law judge (“ALJ”) issued his final initial determination (“final ID”), finding that Sinorgchem and Sovereign had violated section 337 with respect to the asserted claims of the ‘063 and ‘111 patents, but finding that KKPC had not. All parties petitioned for review of various parts of the final ID. The Commission reviewed the ALJ’s final ID in its entirety. 71 *Fed. Reg.* 20131 (April 19, 2006). On review, the Commission found a violation of section 337 with respect to the asserted claims, and issued a limited exclusion order. The limited exclusion order barred the unauthorized importation into the United States by Sinorgchem and Sovereign of 4-ADPA made by a process covered by claim 30 of the ‘063 patent or claim 7 of the ‘111 patent, and 6-PPD made by a process covered by claim 61 of the ‘063 patent or claim 11 of the ‘111 patent.

Sinorgchem appealed the Commission’s final determination to the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”). On December 21, 2007, the Federal Circuit issued its judgment vacating and remanding the Commission’s final determination for further proceedings consistent with the Court’s opinion. *Sinorgchem Co., Shandong v. International Trade Commission*, 511 F.3d 1132 (Fed. Cir. 2007) (“*Sinorgchem*”). The mandate of the Court issued on April 14, 2008.

On June 3, 2008, the Commission issued notice of its determination to rescind the limited exclusion order relating to the importation of rubber antidegradant products. The Commission also determined to remand the investigation to the presiding ALJ for proceedings consistent with *Sinorgchem*, including issuance of a final initial determination on violation and a recommended determination on remedy and bonding.

On July 18, 2008, Flexsys and Sovereign filed a joint motion to terminate the investigation as to Sovereign pursuant to Commission rule 210.21 on the basis of a settlement agreement and consent order. On July 30, 2008, the Commission investigative attorney filed a response in support of the joint motion for termination. On July 31, 2008, the ALJ issued the subject ID, terminating the investigation as to Sovereign based on a settlement agreement and consent order. No petitions for review of the subject ID were filed.

Having reviewed the subject ID and the relevant portions of the record, the Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR § 210.42(h)).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: August 29, 2008