

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

In the Matter of

**CERTAIN PESTICIDES AND
PRODUCTS CONTAINING
CLOTHIANIDIN**

Inv. No. 337-TA-635

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 31, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Sumitomo Chemical Co. Ltd. of Japan and Valent U.S.A. Corporation of Walnut Creek, California. A supplement to the complaint was filed on February 19, 2008. The complaint, as supplemented, alleges violations 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 pesticides and products containing clothianidin that infringe certain claims of U.S. Patent No. 5,034,404. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at <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>.

FOR FURTHER INFORMATION CONTACT: Vu Q. Bui, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2582.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2007).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 27, 2008, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain pesticides or products containing clothianidin that infringe one or more of claims 1 and 9 of U.S. Patent No. 5,034,404, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are –

Sumitomo Chemical Co. Ltd.
Tokyo Sumitomo Twin Building (East)
27-1, Shinkawa 2-chome
Chuo-ku, Tokyo 104-8260, Japan

Valent U.S.A. Corporation
1600 Riviera Ave.
Suite 200
Walnut Creek, California 94596

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Syngenta AG
Schwarzwaldallee 215
4058 Basel, Switzerland

Syngenta India Ltd.

Crop Protection Sector
Royal Insurance Building
14, J. Tata Road
Mumbai 400 020, India

Syngenta Corp.
2200 Concord Pike
Wilmington, Delaware 19803

Syngenta Seeds Inc.
7500 Olson Memorial Highway
Golden Valley, Minnesota 55427

Syngenta Crop Protection Inc.
410 S. Swing Rd.
Greensboro, North Carolina 27409

Garst Seed Co.
2369 330th Street
Slater, Iowa 50244

Golden Harvest Seeds, Inc.
100JC Robinson Blvd.
Waterloo, Nebraska 68130

(c) The Commission investigative attorney, party to this investigation, is Vu Q. Bui, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the

allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary for the Commission

Issued: February 27, 2008