

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

In the Matter of

**CERTAIN CARBON AND ALLOY STEEL
PRODUCTS**

Investigation No. 337-TA-1002

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AND
ON REVIEW TO REVERSE AN INITIAL DETERMINATION TERMINATING
COMPLAINANT’S FALSE DESIGNATION OF ORIGIN CLAIM**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 46) of the presiding administrative law judge (“ALJ”) that terminated Complainant’s false designation of origin claim under 19 CFR 210.21 and, in the alternative, under 19 CFR 210.18. On review, the Commission has determined to reverse the ID and remand the investigation to the ALJ for further proceedings.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2392. 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 SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 based on a complaint filed by United States Steel Corporation of Pittsburgh, Pennsylvania (“U.S. Steel”), alleging a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337. *See* 81 FR 35381 (June 2, 2016). The complaint alleges violations of section 337 based upon the importation into the United States, or in the sale of certain carbon and alloy steel products by reason of: (1) a conspiracy to fix prices and control output and export volumes, the threat or effect of which is to restrain or monopolize trade and commerce in the United States; (2) misappropriation and use of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States; and (3) false designation of origin or manufacturer, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation identified numerous respondents that are Chinese

steel manufacturers or distributors, as well as some of their Hong Kong and United States affiliates. *Id.* In addition, the Office of Unfair Import Investigations (OUII) is a party in this investigation. *Id.*

On December 6, 2016, the ALJ, *sua sponte*, ordered U.S. Steel to show cause why its false designation of origin claim should not be terminated based on U.S. Steel's failure to submit "direct evidence that any named respondent actually imported any steel with a false designation of origin." Order No. 41 at 2. The ALJ stated that the absence of any known importation raises a question of subject matter jurisdiction and violates Commission Rule 210.12(a)(3), which "requires that a complaint 'describe specific instances of alleged unlawful importation[s] or sales'" *Id.* at 3.

On January 11, 2017, the ALJ, acting *sua sponte*, issued the subject ID (Order No. 46) that terminated U.S. Steel's false designation of origin claim under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1) pursuant to 19 C.F.R. §§ 210.21 and 210.18. Specifically, the ID found that the complaint failed to comply with Commission Rule 210.12(a)(3), 19 C.F.R. § 210.12(a)(3), because the complaint "does not identify a specific instance of importation or sale." ID at 12.

On January 23, 2017, U.S. Steel and OUII filed petitions for review of the ID. On January 30, 2017, the participating respondents filed a joint response to the petitions for review. No party requested an oral argument before the Commission.

Having reviewed the record of the investigation, including the complaint, Order No. 46, the petitions for review, and the response thereto, the Commission has determined to review the ID. On review, the Commission has determined to reverse the ID and remand the investigation to the ALJ for further proceedings. The reasons for the Commission's determination will be set forth in the Commission's forthcoming opinion.

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.



Lisa R. Barton
Secretary to the Commission

Issued: February 27, 2017