

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTROLYTE CONTAINING
BEVERAGES AND LABELING AND
PACKAGING THEREOF**

Investigation No. 337-TA-1269

**NOTICE OF COMMISSION DECISION NOT TO REVIEW
AN INITIAL DETERMINATION PARTIALLY TERMINATING
THE INVESTIGATION AS TO CERTAIN RESPONDENTS BASED ON
PARTIAL WITHDRAWAL OF THE COMPLAINT**

AGENCY: U.S. 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”) (Order No. 21) of the presiding Administrative Law Judge (“ALJ”) partially terminating the investigation as to respondents Manuel Bautista Nogales, Flexicompuestos S.A. de C.V., Comercializadora Degu S.A. de C.V., MPC Foods S.A. de C.V., Comercializadora Embers S.A. de C.V., and Myrna Guadalupe Perez Martinez (all of Mexico) (collectively, “the Terminated Respondents”), based on the withdrawal of the complaint as to those respondents.

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 July 6, 2021, the Commission instituted this 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 CAB Enterprises, Inc. of Houston, Texas and Sueros y Bebidas Rehidratantes, S.A. de C.V. of Mexico (collectively, “Complainants”). *See* 86 FR 35532-33 (July 6, 2021). The complaint, as supplemented, alleges 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 electrolyte containing beverages and labeling and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 4,222,726; 4,833,885; 4,717,350; and 4,717,232 (collectively, “the Asserted Trademarks”). *See id.* In addition to the Terminated Respondents, the notice of investigation names the following

respondents (all of Mexico): (1) Carbonera Los Asadores de C.V.; Comercial Treviño de Reynosa, S.A. de C.V.; Distribuidora Mercatto S.A. de C.V.; H & F Tech International S.A. de C.V.; Leticia Angélica Saenz Fernandez; Yoselen Susana Martinez Tirado; Grupo Comercial Lux del Norte S.A. de C.V.; and Caribe Agencia Express, S.A. de C.V. (collectively, “the Defaulting Respondents”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On September 14, 2021, and April 7, 2022, the ALJ issued initial determinations (Order Nos. 8 & 19) finding the Defaulting Respondents in default pursuant to Commission Rule 210.16 (19 CFR 210.16), for failure to respond to the complaint and notice of investigation and to orders to show cause (Order Nos. 7 & 9). *See* Order No. 8 (Sept. 14, 2021), *unreviewed by* Comm’n Notice (Oct. 6, 2021); Order No. 19 (Apr. 7, 2022), *unreviewed by* Comm’n Notice (Apr. 26, 2022).

On April 18, 2022, Complainants filed a declaration under Commission Rule 210.16 (19 CFR 210.16) requesting the immediate entry of limited exclusion orders against the Defaulting Respondents. Complainants also indicated pursuant to 19 CFR 210.16(c)(2) that they are not seeking a general exclusion order.

On May 27, 2022, the Commission issued a notice seeking written submissions from the parties and the public on the issues of remedy, the public interest, and bonding. *See* 87 FR 33831-32 (June 3, 2022).

On April 6, 2022, and as corrected on May 9, 2022, Complainants filed an unopposed motion for partial termination of the investigation as to the Terminated Respondents based on the withdrawal of the allegations in the complaint as to those respondents under Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)). On April 7, 2022, OUII filed a response in support of the motion.

On June 1, 2022, the ALJ issued the subject ID (Order No. 21) granting the motion and partially terminating the investigation as to the Terminated Respondents. In accordance with Commission Rule 210.21(a)(1), the ID notes that Complainants represent that “there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” *See* ID at 3. In addition, the ID finds that termination of the investigation as to the Terminated Respondents “is in the public interest.” *See id.*

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. Respondents Manuel Bautista Nogales, Flexicompuestos S.A. de C.V., Comercializadora Degu S.A. de C.V., MPC Foods S.A. de C.V., Comercializadora Embers S.A. de C.V., and Myrna Guadalupe Perez Martinez are terminated from the investigation.

The Commission’s vote for this determination took place on June 27, 2022.

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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: June 28, 2022