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


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.

Lisa R. Barton
Secretary to the Commission

Issued: June 28, 2022