

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN NON-SHELLFISH DERIVED
GLUCOSAMINE AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-668

**NOTICE OF COMMISSION DETERMINATION TO REVIEW
AN INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
THE INVESTIGATION AS TO RESPONDENT ETHICAL NATURALS, INC. FROM
THE INVESTIGATION BASED UPON A SETTLEMENT AGREEMENT;
BRIEFING SCHEDULE**

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. 26) granting a joint motion to terminate the investigation as to respondent Ethical Naturals, Inc. from the investigation based upon a settlement agreement.

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: This investigation was instituted on March 4, 2009, based upon a complaint filed on behalf of Cargill, Inc. of Wayzata, Minnesota (“Cargill”) on January 28, 2009, and supplemented on February 13, 2009. 74 *Fed. Reg.* 9428 (March 4, 2009). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in

the importation into the United States, the sale for importation, and the sale within the United States after importation of certain non-shellfish derived glucosamine and products containing same that infringe certain claims of United States Patent No. 7,049,433. The notice of investigation named six firms as respondents.

On May 27, 2009, Cargill and ENI filed a motion to terminate the investigation based upon a settlement agreement and license agreement. The ALJ denied this motion. Order No. 23 (June 29, 2009).

On June 1, 2009, the Commission issued notice of its determination not to review an ID terminating the investigation with respect to respondents Hygieia Health Co., Ltd. and TSI Health Sciences, Inc. based on a settlement agreement. On July 28, 2009, the Commission issued notice of its determination not to review an ID terminating the investigation with respect to Nantong Foreign Medicines & Health Products Co., Ltd. and Tiancheng International, Inc. on the basis of withdrawal of the complaint as to these two respondents. On July 30, 2009, the Commission issued notice of its determination not to review an ID terminating the investigation with respect to DNP International, Inc. on the basis of a consent order.

On July 13, 2009, Cargill and respondent ENI filed a second joint motion pursuant to Commission Rule 210.21(b) to terminate the investigation based upon a settlement agreement and license agreement. On July 23, 2009, the Commission investigative attorney filed a response in support of the motion.

On July 24, 2009, the ALJ issued Order No. 26, granting the motion. No petitions for review were filed.

The Commission has determined to review the subject ID. In connection with its review, the Commission is particularly interested in responses to the following:

[CONFIDENTIAL INFORMATION DELETED]

The parties are requested to brief their positions with reference to the applicable law and the evidentiary record.

WRITTEN SUBMISSIONS: Parties are requested to file written submissions on the issues identified in this notice. The written submissions must be filed no later than close of business on September 7, 2009. Reply submissions must be filed no later than the close of business on September 17, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings.

All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 24, 2009