

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

Investigation Nos. 701-TA-692 and 731-TA-1628 (Final)

Certain Pea Protein from China

Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701-TA-692 and 731-TA-1628 (Final) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain pea protein from China, provided for in subheadings 3504.00.10, 3504.00.50, and 2106.10.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (“Commerce”) to be subsidized and sold at less-than-fair-value.

DATE: February 13, 2024.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones (202-205-3358), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.-- For purposes of these investigations, Commerce has defined the subject merchandise as high protein content (HPC) pea protein, which is a protein derived from peas (including, but not limited to, yellow field peas and green field peas) and which contains at least 65 percent protein on a dry weight basis. HPC pea protein may also be identified as, for example, pea protein concentrate, pea protein isolate, hydrolyzed pea protein, pea peptides, and fermented pea protein. Pea protein, including HPC pea protein, has the Chemical Abstracts Service (CAS) registry number 222400–29–5.

The scope covers HPC pea protein in all physical forms, including all liquid (e.g., solution) and solid (e.g., powder) forms, regardless of packaging or the inclusion of additives (e.g., flavoring, suspension agents, preservatives).

The scope also includes HPC pea protein described above that is blended, combined, or mixed with non-subject pea protein or with other ingredients (e.g., proteins derived from other sources, fibers, carbohydrates, sweeteners, and fats) to make products such as protein powders, dry beverage blends, and protein fortified beverages. For any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope of this investigation. HPC pea protein that has been blended, combined, or mixed with other products is included within the scope, regardless of whether the blending, combining, or mixing occurs in third countries.

HPC pea protein that is otherwise within the scope is covered when commingled (i.e., blended, combined, or mixed) with HPC pea protein from sources not subject to this investigation. Only the subject component of the commingled product is covered by the scope.

A blend, combination, or mixture is excluded from the scope if the total HPC pea protein content of the blend, combination, or mixture (regardless of the source or sources) comprises less than five percent of the blend, combination, or mixture on a dry weight basis.

All products that meet the written physical description are within the scope of the investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigation:

- burgers, snack bars, bakery products, sugar and gum confectionary products, milk, cheese, baby food, sauces and seasonings, and pet food, even when such products are made with HPC pea protein;
- HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration. These products are commonly described as textured pea protein or texturized pea protein;
- HPC pea protein that has been further processed to create a small crunchy nugget commonly described as a pea protein crisp;
- protein derived from chickpeas.

The merchandise covered by the scope is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) categories 3504.00.1000, 3504.00.5000, and 2106.10.0000. Such merchandise may also enter the U.S. market under HTSUS category 2308.00.9890. Although HTSUS categories and the CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Background.--The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of pea protein, and that such products are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on July 12, 2023, by PURIS Proteins, LLC, Minneapolis, Minnesota.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.--Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.--Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.--The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 11, 2024, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.-- The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, June 25, 2024. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Wednesday, June 19, 2024. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3pm the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Thursday, June 20, 2024. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4:00pm on June 24, 2024. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the hearing.

Written submissions.--Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of §207.23 of the Commission's rules; the deadline for filing is June 18, 2024. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 2, 2024. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 2, 2024. On July 19, 2024, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 23, 2024, but such final comments must not contain new factual information and must otherwise comply with §207.30 of the Commission's

rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

AUTHORITY: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: February 29, 2024