

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436**

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-582

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) based on the unlawful importation and sale of certain hydraulic excavators that infringe United States Trademark Registration Nos. 2,140,606; 2,241,077; 2,140,605 and 2,448,848, which cover the "CAT" and "Caterpillar" marks.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary because there is a pattern of violation of section 337 and it is difficult to identify the source of the infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing gray market hydraulic excavators bearing the trademarks at issue.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

(1) Hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use outside the North America Commercial Division (United States and Canada) which (a) bear one or more of the following U.S. Trademark Reg. Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848 and (b) are materially different from hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use in the United States, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from warehouse for consumption, except if imported by, under license from, or with the permission of the trademark owner, or as provided by law, until such date as the trademarks are abandoned, canceled, or rendered invalid or unenforceable. This paragraph shall apply to hydraulic excavators exported, shipped, sold, purchased, or imported by any and all persons, including authorized Caterpillar dealers.

(2) Notwithstanding paragraph 1 of this Order, the aforesaid hydraulic excavators excludeable under paragraph 1 of this Order are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43251) from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this Order.

(3) In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to hydraulic excavators bearing the asserted trademarks that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

(4) Complainant Caterpillar Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Caterpillar Inc. continues to use each of the aforesaid trademarks in commerce in the United States in connection with hydraulic excavators, whether any of the aforesaid trademarks has been abandoned, canceled, or rendered invalid or unenforceable, and whether Caterpillar Inc. continues to satisfy the economic requirements of Section 337(a)(2).

(5) The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

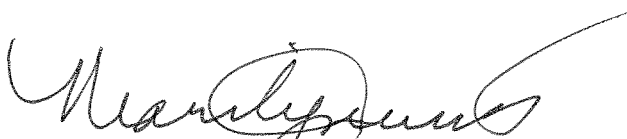
(6) The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs and Border Protection.

(7) Notice of this Order shall be published in the Federal Register.

(8) At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import hydraulic excavators that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1 through 7

of this Order. At its discretion, Customs may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', with a long, sweeping flourish extending to the right.

Marilyn R. Abbott
Secretary to the Commission

Issued: January 14, 2009

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-582

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Frontera Equipment Sales (“Frontera”) cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, marketing, offering for sale, transferring (except for exportation), or soliciting U.S. agents or distributors for certain hydraulic excavators, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Caterpillar” shall mean Caterpillar Inc., 100 N.E. Adams Street, Peoria, Illinois 61629-7310, complainant in this investigation, and its successors and assigns.

(C) “Respondent” shall mean Frontera Equipment Sales, U.S. Expressway 83, Donna, Texas 78537.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption, entry for consumption from a foreign-trade zone, and withdrawal from warehouse for consumption under the Customs laws of the United States.

(G) The term “covered product” shall include hydraulic excavators that are manufactured abroad by or on behalf of, or are imported by or on behalf of, Respondent, and are materially different from hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use in the United States that infringe the following federally-registered U.S. trademarks: U.S. Registration Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848, and that are not imported by, under license from, or with the permission of the trademark owner, or as provided by law.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, contractors, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of the Respondent in the United States is prohibited by the Order. While the trademarks remain valid and enforceable, and are not abandoned, canceled, or rendered invalid or unenforceable, Respondent shall not:

(A) import or sell for importation into the United States covered products except under license of the trademark owner;

(B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products except under license of the trademark owner;

(C) advertise imported covered products except under license of the trademark owner;

(D) solicit U.S. agents or distributors for imported covered products except under license of the trademark owner; or

(E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products in the United States except under license of the trademark owner.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of U.S. Trademark Registration Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848, licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through December 31, 2009. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no

inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the quantity in units and the value in dollars of covered products that the Respondent has imported or sold in the United States after importation during the reporting period and the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are

required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VI(B) and VII(C) shall remain in effect until such date on which the trademarks are abandoned, canceled, or rendered invalid or unenforceable, whichever is later.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission Rules of Practice and Procedure, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative under authority delegated by the President, 70 Fed Reg 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100% of entered value per unit of the covered products. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of

temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By Order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

Issued: January 14, 2009

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-582

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) based on the unlawful importation and sale of certain hydraulic excavators that infringe United States Trademark Registration Nos. 2,140,606; 2,241,077; 2,140,605 and 2,448,848, which cover the "CAT" and "Caterpillar" marks.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary because there is a pattern of violation of section 337 and it is difficult to identify the source of the infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing gray market hydraulic excavators bearing the trademarks at issue.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

(1) Hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use outside the North America Commercial Division (United States and Canada) which (a) bear one or more of the following U.S. Trademark Reg. Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848 and (b) are materially different from hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use in the United States, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from warehouse for consumption, except if imported by, under license from, or with the permission of the trademark owner, or as provided by law, until such date as the trademarks are abandoned, canceled, or rendered invalid or unenforceable. This paragraph shall apply to hydraulic excavators exported, shipped, sold, purchased, or imported by any and all persons, including authorized Caterpillar dealers.

(2) Notwithstanding paragraph 1 of this Order, the aforesaid hydraulic excavators excludeable under paragraph 1 of this Order are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43251) from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this Order.

(3) In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to hydraulic excavators bearing the asserted trademarks that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

(4) Complainant Caterpillar Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Caterpillar Inc. continues to use each of the aforesaid trademarks in commerce in the United States in connection with hydraulic excavators, whether any of the aforesaid trademarks has been abandoned, canceled, or rendered invalid or unenforceable, and whether Caterpillar Inc. continues to satisfy the economic requirements of Section 337(a)(2).

(5) The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

(6) The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs and Border Protection.

(7) Notice of this Order shall be published in the Federal Register.

(8) At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import hydraulic excavators that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1 through 7

of this Order. At its discretion, Customs may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

Issued: January 14, 2009

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-582

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Barkley Industries LLC (“Barkley”) cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, marketing, offering for sale, transferring (except for exportation), or soliciting U.S. agents or distributors for certain hydraulic excavators, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Caterpillar” shall mean Caterpillar Inc., 100 N.E. Adams Street, Peoria, Illinois 61629-7310, complainant in this investigation, and its successors and assigns.

(C) “Respondent” shall mean Barkley Industries, LLC, 13309 West Palo Verde Drive, P.O. Box 579, Litchfield Park, Arizona 85340.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption, entry for consumption from a foreign-trade zone, and withdrawal from warehouse for consumption under the Customs laws of the United States.

(G) The term “covered product” shall include hydraulic excavators that are manufactured abroad by or on behalf of, or are imported by or on behalf of, Respondent, and are materially different from hydraulic excavators manufactured by or under authority of Caterpillar Inc. for sale and use in the United States that infringe the following federally-registered U.S. trademarks: U.S. Registration Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848, and that are not imported by, under license from, or with the permission of the trademark owner, or as provided by law.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, contractors, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of the Respondent in the United States is prohibited by the Order. While the trademarks remain valid and enforceable, and are not abandoned, canceled, or rendered invalid or unenforceable, Respondent shall not:

(A) import or sell for importation into the United States covered products except under license of the trademark owner;

(B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products except under license of the trademark owner;

(C) advertise imported covered products except under license of the trademark owner;

(D) solicit U.S. agents or distributors for imported covered products except under license of the trademark owner; or

(E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products in the United States except under license of the trademark owner.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of U.S. Trademark Registration Nos. 2,140,605; 2,140,606; 2,421,077; and 2,448,848, licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through December 31, 2009. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no

inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the quantity in units and the value in dollars of covered products that the Respondent has imported or sold in the United States after importation during the reporting period and the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are

required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VI(B) and VII(C) shall remain in effect until such date on which the trademarks are abandoned, canceled, or rendered invalid or unenforceable, whichever is later.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission Rules of Practice and Procedure, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative under authority delegated by the President, 70 Fed Reg 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100% of entered value per unit of the covered products. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

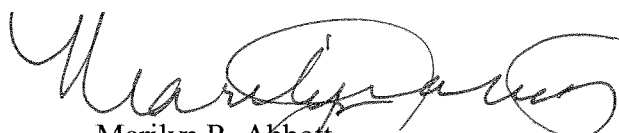
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of

temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By Order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

Issued: January 14, 2009