

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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| In the Matter of |) | |
| |) | |
| CERTAIN AGRICULTURAL VEHICLES |) | Inv. No. 337-TA-487 |
| AND COMPONENTS THEREOF |) | |
| |) | |

NOTICE OF ISSUANCE OF GENERAL EXCLUSION ORDER, LIMITED EXCLUSION ORDERS, AND CEASE AND DESIST ORDERS; TERMINATION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a general exclusion order, two limited exclusion orders, and cease and desist orders in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3090. Copies of the ALJ's ID and all other nonconfidential 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-ON-LINE) 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: The Commission instituted this investigation on February 13, 2003, based on a complaint filed by Deere & Company ("Deere") of Moline, Illinois. 68 FR 7388 (February 13, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain agricultural vehicles and components thereof by reason of infringement and dilution of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; 1,503,576; and 91,860.

On August 27, 2003, the Commission issued notice that it had determined not to review Order No. 14, granting complainant's motion to amend the complaint and notice of investigation to add U.S. Trademark Registration No. 2,729,766.

On November 14, 2003, the Commission issued notice that it had determined not to review Order No. 29, granting complainant's motion for summary determination that complainant had met the technical prong of the domestic industry requirement.

Twenty-four respondents were named in the Commission's notice of investigation. Several of these have been terminated from the investigation on the basis of consent orders. Several other respondents have been found to be in default.

On January 13, 2004, the presiding administrative law judge ("ALJ") issued his final initial determination ("ID") finding a violation of section 337. He also recommended the issuance of remedial orders. Two groups of respondents petitioned for review of the ID. Complainant and the Commission investigative attorney ("IA") filed oppositions to those petitions.

On February 18, 2004, the Commission issued notice that it had decided to extend the time to determine whether to review the ID to March 29, 2004, and to extend the target date for completing the investigation to May 13, 2004.

On March 30, 2004, the Commission issued notice that it had decided not to review the ID and set a schedule for written submissions on remedy, the public interest, and bonding. Complainant, respondents, and the IA timely filed such submissions.

Having examined the relevant portions of the record in this investigation, including the ALJ's recommended determination, the written submissions on remedy, public interest, and bonding, and the replies thereto, the Commission determined to issue (1) a general exclusion order prohibiting the unlicensed entry for consumption of European version self-propelled forage harvesters manufactured by or under the authority of Deere & Co. which infringe any of the asserted trademarks, (2) a limited exclusion order prohibiting the unlicensed entry for consumption of European version telehandlers manufactured by or under the authority of Deere & Co. which infringe any of the asserted trademarks, (3) a limited exclusion order prohibiting the unlicensed entry for consumption of agricultural tractors which infringe one or more of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; and 1,503,576, (4) cease and desist orders to certain respondents prohibiting activities concerning the importation and sale of European version self-propelled forage harvesters manufactured by or under the authority of Deere & Co. which would constitute infringement of any of the asserted trademarks, (5) cease and desist orders to certain respondents prohibiting activities concerning the importation and sale of agricultural tractors which would constitute infringement of one or more of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; and 1,503,576.

The Commission also determined that the public interest factors enumerated in section 337(d) do not preclude the issuance of the aforementioned remedial orders and that the bond during the Presidential review period shall be 90 percent of the entered value of the articles in question.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, the Administrative Procedure Act, and sections 210.41-51 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.41-51.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: May 14, 2004