

names HANA Corporation ("HANA") of Seoul, Republic of Korea, and InkSticks.com of Cheyenne, Wyoming, as respondents.

On October 26, 2005, complainant Xerox moved pursuant to 19 U.S.C. 1337(g)(1) and Commission Rule 210.16 for an order (1) directing HANA and InkSticks.com to show cause why each should not be found in default for failing to respond to the complaint and notice of investigation, and (2) upon failure of the respondents to show such cause, for an initial determination ("ID") finding the respondents in default. The administrative law judge ("ALJ") issued an ID on December 20, 2005, finding HANA and InkSticks.com in default, because neither respondent replied to the complaint or notice of investigation, and neither respondent replied to the show cause order issued by the ALJ on November 5, 2005. The Commission declined to review the ALJ's determination that respondents HANA and InkSticks.com, the only respondents named in the investigation, defaulted.

On January 19, 2006, Xerox filed a declaration requesting immediate relief against the defaulting respondents with proposed remedial orders attached. Section 337(g)(1) (19 U.S.C. 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)) authorize the Commission to order limited relief against a respondent found in default, unless after consideration of the public interest factors, it finds that such relief should not issue. The Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry are either adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission

will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. There is no need to duplicate filings previously made. Complainant is requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on February 24, 2006. Reply submissions must be filed no later than the close of business on March 3, 2006. 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 (or portion thereof) 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 CFR 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 210.16 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.16 and 210.50).

By order of the Commission.

Issued: February 10, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## **INTERNATIONAL TRADE COMMISSION**

**[Inv. Nos. 701-TA-309-A-B and 731-TA-528 (Review) (Remand)]**

### **Magnesium From Canada; Notice and Scheduling of Remand Proceeding**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The U.S. International Trade Commission ("Commission") hereby gives notice that it is inviting the parties to the North American Free Trade Agreement (NAFTA) Chapter 19 panel proceeding in *Magnesium from Canada*, USA-CDA-00-1904-09, to file comments in the remand proceeding ordered by the NAFTA binational panel.

**FOR FURTHER INFORMATION CONTACT:** Peter L. Sultan, Esq., Office of the General Counsel, telephone (202) 205-3094, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 16, 2002, a NAFTA Panel remanded the Commission's affirmative sunset review determination in *Magnesium from Canada*, Inv. Nos. 701-TA-309-A-B and 731-TA-528 (Review), USITC Pub. 3324 (July 2000). In response, the Commission submitted a remand determination to the Panel in October 2002. On January 17, 2006, the NAFTA Panel affirmed in part and

remanded in part the Commission's 2002 remand determination. The Panel remanded the determination to the Commission with an order to take further action consistent with its instructions. The Commission is directed to issue its remand determination within 60 days of the issuance of the Panel's decision, *i.e.*, by March 17, 2006.

#### Participation in the Remand Proceedings

Only the parties to the NAFTA Chapter 19 panel proceeding may participate in this remand proceeding. No additional filings with the Commission will be necessary for these parties to participate in the remand proceeding. Business proprietary information ("BPI") referred to during the remand proceeding will be governed, as appropriate, by the administrative protective order issued in the sunset reviews.

#### Written Submissions

The Commission invites the parties to the NAFTA Chapter 19 panel proceeding to file comments on or before February 21, 2006, with respect to how the record bears on the Panel's instruction that the Commission "provide further reasoned analysis supported by substantial evidence on the record, including any factual evidence not referred to in its Views on Remand, as to the conclusion that Magnola would enter the market by underselling in order to establish export volumes that would be significant in relation to anticipated demand increases."

These comments must be limited to the precise issue in the Panel's remand instruction quoted above, and must be based solely on the information already in the Commission's record and may not include additional factual information. Comments shall not exceed fifteen (15) pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the

NAFTA Chapter 19 panel proceeding must be served on all other such parties, and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

**Authority:** This action is taken under the authority of the Tariff Act of 1930, title VII.

By order of the Commission.

Issued: February 9, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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#### DEPARTMENT OF JUSTICE

##### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 3, 2006, an electronic version of a proposed consent decree was lodged in the United States District Court for the District of South Carolina in *United States v. Exxon Mobile Corporation, et al.*, No. 7:06-00360-GRA (D.S.C.). The consent decree settles the United States' claims against numerous defendants under section 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607, in connection with the Aqua-Tech Environmental, Inc. (Groce Labs) Superfund Site near Greer, South Carolina (the "Site"). Under the proposed consent decree, 79 settling defendants will perform the Remedial Design and Remedial Action for the Site and reimburse the United States Environmental Protection Agency ("EPA") for past and future costs.

In connection with the proposed consent decree, the United States, on behalf of 13 settling federal agencies, will contribute funds to pay EPA's past costs and to fund the future work. A fourteenth settling federal agency, the U.S. Postal Service, will make a lump sum payment to EPA for past costs and will make a lump sum payment to the settling defendants to fund the work.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments

relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Exxon Mobil Corporation, et al.*, No. 7:06-CV-00360-GRA (D.S.C.) and DOJ #90-113-08483.

The consent decree may be examined at the Office of the United States Attorney for this District of South Carolina 1441 Main Street, Suite 500 Columbia, South Carolina 29201. During the public comment period, the consent decree may also be examined on the following Department of Justice Web site: <http://www.usdoj.gov/enrd/open.html>. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood, [tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov), Fax No. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$33.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Ellen M. Mahan,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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#### DEPARTMENT OF JUSTICE

##### Notice of Lodging of Consent Decree Under Resource Conservation and Recovery Act

Under 28 CFR 50.7, notice is hereby given that on January 25, 2006, a proposed Consent Decree in *United States v. City of New York*, Civil Action No. 02-9653, was lodged with the United States District Court for the Southern District of New York.

The City operates over 1,600 underground storage tanks ("USTs"), which it uses to distribute fuel for use in City-owned vehicles. The United States filed a complaint in December 2002 alleging various violations of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6991e, and its implementing regulations governing USTs regarding these tanks, including: Failure to upgrade the tanks to prevent leaks; failure to implement methods for detecting leaks; failure to investigate suspected leaks; and various related recordkeeping violations. The proposed settlement provides for the City to pay