

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

**In the Matter of**

**CERTAIN HYDRAULIC EXCAVATORS  
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-582**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW INITIAL DETERMINATION  
GRANTING JOINT MOTION  
TO TERMINATE INVESTIGATION AS TO CERTAIN RESPONDENTS**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 38) granting joint motions to terminate the above-captioned investigation as to certain respondents.

**FOR FURTHER INFORMATION CONTACT:** Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3112. Copies of the ALJ's IDs and all other 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 at <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:** On August 29, 2006, the Commission instituted this investigation, based on a complaint filed by Caterpillar Inc. ("Caterpillar") of Peoria, Illinois. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain hydraulic excavators and components thereof by reason of infringement of U.S. Trademark Registration No. 2,140,606, U.S. Trademark Registration No. 2,421,077, U.S. Trademark Registration No. 2,140,605, and U.S. Trademark Registration No. 2,448,848. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The complaint named twenty (20) firms as respondents. Two respondents, Barkley Industries LLC and Frontera Equipment Sales, have been found in default.

On January 26, 2007, joint motions between Caterpillar and Respondents Deanco Auction Co. of Mississippi Inc.; Petrowsky Auctioneers, Inc.; Ritchie Bros. Auctioneers, Inc.; and Ritchie Brothers

Auctioneers (America), Inc. and between Caterpillar and Respondents Musselman Construction Co., d/b/a Musselman Rentals and Sales; Tractorland Equipment Co., Inc.; and Pacific Rim Machinery, Inc. were filed seeking termination of this investigation based upon settlement agreements. On February 21, 2007, the ALJ issued Order Nos. 18 & 19, granting motions to terminate the investigation. The ALJ found no indication that termination of the investigation as to these respondents on the basis of the settlement agreements would adversely affect the public interest, and that the procedural requirements for terminating the investigation had been met. No petitions for review were filed. On March 20, 2007 the Commission determined not to review the ID.

On April 10, 2007, joint motions between Caterpillar and Respondents Dom-Ex Inc.; Kuhn Equipment Sales Co., Inc.; MMS Equipment Sales L.L.C., Prima International Trading, Southwestern Machinery of Florida, Inc.; and United Equipment Company, Inc. (collectively, the "Respondents") were filed seeking termination of this investigation based upon settlement agreements. On April 23, 2007, the ALJ issued Order No. 38, granting the motion to terminate the investigation as to the Respondents. The ALJ found no indication that termination of the investigation on the basis of the settlement agreements would adversely affect the public interest, and that the procedural requirements for terminating the investigation had been met. No petitions for review were filed.

The Commission has determined not to review the ID.

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

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

Issued: May 17, 2007