

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of)
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CERTAIN AGRICULTURAL VEHICLES) Investigation No. 337-TA-487
AND COMPONENTS THEREOF)
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NOTICE OF COMMISSION DETERMINATION TO REVIEW AND MODIFY AN
INITIAL DETERMINATION FINDING A RESPONDENT IN DEFAULT

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (ALJ Order No. 10) of the presiding administrative law judge (“ALJ”) in the above-captioned investigation, which finds respondent Agra-Invocentrum-Benelux (“Agra”) in default, for the limited purpose of modifying the ID to correct a typographical error.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3095. 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) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: On February 13, 2003, the Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 in the importation and sale of certain agricultural vehicles and components thereof by reason of infringement and dilution of U.S. Registered Trademark Nos. 1,254,339; 1,502,103; 1,503,576; and 91,860. 68 *Fed. Reg.* 7388 (Feb. 13, 2003). On April 18, 2003, complainant Deere & Company (“Deere”) of Moline, Illinois, moved pursuant to Commission rule 210.16 for an order directing that one of the respondents -- Agra -- show cause why it should not be found in default for failure to: (1) file a response to Deere’s complaint complying with Commission rule 210.13; (2) provide any response to the Notice of Investigation; and (3) provide a discovery statement. 19 C.F.R. §§ 210.13 & 210.16. Deere also requested in its motion that the ALJ recommend the issuance of an exclusion order against imports of Deere equipment through Agra. The Commission investigative attorney (“IA”) (Mr. Lloyd) supported Deere’s motion for a show cause order. The IA did not comment on the form of relief that the ALJ should recommend if he ultimately found a default.

The ALJ issued ALJ Order No. 7 on May 1, 2003, directing Agra to show cause why it should not

be found in default. Agra did not respond to the show cause order.

On June 10, 2003, the ALJ issued an ID (ALJ Order No. 10), finding Agra in default due to Agra's failure to: (1) comply with Commission rule 210.3; (2) file a discovery document; (3) appear at the preliminary conference; and (4) respond to the complainant's and the staff's discovery requests. 19 C.F.R. § 210.3. As to Deere's suggestion that the ALJ recommend the issuance of an exclusion order against Agra, the ALJ held that request in "abeyance" in order to avoid making piecemeal recommendations. No party petitioned for review of the ID.

The ALJ's citation to Commission rule 210.3 is an apparent typographical error. Rule 210.3 contains definitions, and thus it does not appear to be the basis of the ID. Rule 210.13, in contrast, governs the content of responses to complaints, and was cited in Deere's motion, the IA's response, and in the ALJ's show cause order (ALJ Order No. 7). Accordingly, it is apparent that the ALJ intended to cite to rule 210.13 instead of rule 210.3, and therefore the Commission has determined to review for the limited purpose of modifying the ID in order to correct the citation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and sections 210.44 and 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.44 & 210.45).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are 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.

By order of the Commission.

Marilyn R. Abbott
Secretary

Issued: June 27, 2003