

maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Nicholson by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until June 7, 2007.

VI. A copy of this Order shall be delivered to Nicholson. This Order shall be published in the **Federal Register**.

Dated: March 23, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99-7880 Filed 3-30-99; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032399B]

Taking and Importing of Marine Mammals; International Dolphin Conservation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of initial research results from the International Dolphin Conservation Program survey of dolphins in the eastern tropical Pacific Ocean (ETP).

ADDRESSES: A copy of the research results may be found on the internet at <http://swfsc.ucsd.edu/IDCPA/IDCPAfront.html>. Copies may also be obtained from the Marine Mammal Division, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038-0271 (fax 619-546-7003).

SUPPLEMENTARY INFORMATION: NMFS has conducted scientific research required by the Marine Mammal Protection Act, as amended by the International Dolphin Conservation Program Act ((IDCPA) 16 U.S.C 1414(a)). Under the IDCPA, NMFS is required to study the

effects of intentional encirclement on dolphins incidentally taken in the tuna purse seine fishery in the ETP, and to conduct population abundance surveys and stress studies. The IDCPA requires the Secretary of Commerce to make an initial finding regarding whether intentional encirclement is having a significant adverse impact on any depleted dolphin stock in the ETP (16 U.S.C. 1385(g)). NMFS' report on the study has been delayed by 30 days while completing an additional independent peer review requested by Congress. NMFS expects to publish a notification of the Secretary's initial finding in early May.

Dated: March 24, 1999.

Linda A. Chaves,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99-7887 Filed 3-30-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 990212048-9048-01]

Guidelines for Reexamination of Cases in View of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997)

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice

SUMMARY: The Patent and Trademark Office (PTO) is publishing the final version of guidelines to be used by Office personnel in their review of requests for reexaminations and ongoing reexaminations for compliance with the decision in *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). Because these guidelines govern internal practices, they are exempt from notice and comment under 5 U.S.C. 553(b)(A).

DATES: The guidelines are effective March 31, 1999.

FOR FURTHER INFORMATION CONTACT: John M. Whealan by telephone at (703) 305-9035; by facsimile at (703) 305-9373; by mail addressed to Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231; or by electronic mail at "john.whealan@uspto.gov".

SUPPLEMENTARY INFORMATION:

I. Discussion of Public Comments

Comments were received by the PTO from eight individuals and one bar association in response to the Request for Comments on Interim Guidelines for Reexamination of Cases in View of *In re Portola Packaging, Inc.*, 110 F.3d 786,

42 USPQ2d 1295 (Fed. Cir. 1997), published June 15, 1998 (63 FR 32646). In general, six of the eight individual comments were critical of the guidelines; one individual comment was partially supportive of the guidelines and one suggested a legislative change; the comments from the bar association were in complete support of the guidelines. All of the comments have been carefully considered.

A. Below is a listing of comments along with a corresponding Office response explaining why each has not been adopted:

(1) Comment: Most of the critical comments suggest the Office is misinterpreting the "holding" of *Portola Packaging*. These comments believe *Portola Packaging* held that (i) the Office may not initiate a reexamination proceeding based solely on prior art previously cited during prosecution of the application which matured into the patent, regardless of whether that art was discussed, and (ii) no rejection can be made during a subsequent reexamination based solely on prior art cited during prosecution of the application which matured into the patent, even if that prior art was not previously discussed. Response: The Office views these positions as dicta and not the "holding" of *Portola Packaging*.

The Federal Circuit recently explained the difference between the holding of a case and dicta. See *In re McGrew*, 120 F.3d 1236, 1238-39, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997). The Court explained that dicta consists of the statements in an opinion "upon a point or points not necessary to the decision of the case." *Id.* at 1238, 43 USPQ2d at 1635. The Court further explained that since "dictum is not authoritative," it need not be followed. *Id.*

The Office considers the portions of the *Portola Packaging* opinion relied on by the critical commenters as dicta and not the holding of the case. In *Portola Packaging*, the prior art relied upon in the reexamination (that was found by the Court to be improperly used) was not only cited, but it was also discussed and applied to reject claims during prosecution of the application which matured into the patent. Thus, *Portola Packaging* holds that a rejection in a reexamination proceeding may not be based solely on prior art that was previously applied to reject claims during prosecution of the application which matured into the patent. *Portola Packaging* does not, however, hold (as suggested by the commenters) that prior art in the record of the application that

matured into the patent, which was not discussed, may never form the sole basis for a rejection during a subsequent reexamination proceeding. Such a broad reading of *Portola Packaging* would encourage the practice of applicants citing numerous references during prosecution of an application to preclude subsequent reexamination based on those references. This practice of flooding the Office with references during prosecution of an application in order to prevent their subsequent use in reexamination could overwhelm the examination process and limit the effectiveness of reexamination.

(2) *Comment*: One comment went further and suggested that *Portola Packaging* precluded reexamination based on any reference which is not new art. *Response*: The Office disagrees with this comment in view of the interpretation of the holding of *Portola Packaging* set forth in the preceding paragraph.

(3) *Comment*: One comment suggested the elimination of the unusual fact pattern situations exemplified in Part E, since in their opinion, *Portola Packaging* holds that previously cited art may never be relied on in a reexamination. *Response*: Once again, the Office views this position as dictum and not the holding of the case.

(4) *Comment*: One comment suggested the Office should seek a legislative overruling of the "holding" of *Portola Packaging*. *Response*: As the Office is following the holding of the case (as set forth above), the case need not be overruled. However, changes regarding the type of prior art that may be considered in reexamination proceedings may be proposed in upcoming legislation.

(5) *Comment*: One comment suggested that the form notices set forth in Section F may prompt an applicant to file a reissue application to resolve any issues that are precluded from resolution during reexamination. *Response*: The form notices in Section F have been modified to indicate that no patentability determination has been made in the reexamination (over prior art precluded by *Portola Packaging*). The notices do not suggest the filing of a reissue application. This of course would be an option open to the patent owner as *Portola Packaging* does not apply to reissue applications.

(6) *Comment*: One comment suggested that the practice of an examiner placing his initials next to a reference on an information disclosure statement (IDS), citation form PTOL-1449, or its equivalent, is sufficient to indicate that an examiner has considered the reference. *Response*: Where the IDS

citations are submitted but not described, the examiner is only responsible for cursorily reviewing the references. The initials of the examiner on the PTOL-1449 indicate only that degree of review unless the reference is either applied against the claims, or discussed by the examiner as pertinent art of interest, in a subsequent office action.

As noted in (1) above, the prior art relied upon in the reexamination in *Portola Packaging* was not merely cited and initialed, but it was discussed and applied to reject claims in the application that matured into the patent. *Portola Packaging* does not hold that prior art that was of record but not discussed may not form the sole basis of a rejection of the claims. Accordingly, under *Portola Packaging* the mere presence of the examiner's initials next to a reference on an IDS citation does not preclude consideration of the reference in a subsequent reexamination proceeding.

(7) *Comment*: One comment suggested that the guidelines were inconsistent with *In re Hiniker Co.*, 150 F.3d 1362, 47 USPQ2d 1523 (Fed. Cir. 1998). *Response*: In *Hiniker*, the Federal Circuit affirmed a rejection in a reexamination proceeding which was based, in part, on new prior art. See 150 F.3d at 1367, 47 USPQ2d at 1527. *Hiniker*, therefore, does not preclude a rejection in a reexamination proceeding based on prior art that was cited but never discussed during the prosecution of the application which matured into the patent, since such a situation was not presented to the Court.

In *Hiniker*, the Court did state that *Portola Packaging* "held that prior art that was before the original examiner could not support a reexamination proceeding despite the fact that it was not the basis of a rejection in the original prosecution; as long as the art was before the original examiner, it would be considered 'old art.'" 150 F.3d at 1365-66, 47 USPQ2d at 1526 (citing *Portola Packaging*) (emphasis added). It is undisputed, however, that the prior art relied on to reject the claims in the reexamination proceeding in *Portola Packaging* was the same prior art that was relied on to reject claims during the prosecution of the application which matured into the patent. See *Portola Packaging*, 110 F.3d at 787, 42 USPQ2d at 1296-97. Accordingly, the *Hiniker* panel was not addressing the issue of prior art that was not discussed when it characterized the holding of *Portola Packaging* since it is clear that an "old art" rejection was at issue in *Portola Packaging*, whereas a

"new art" rejection was at issue in *Hiniker*.

(8) *Comment*: One comment suggested that reexaminations should be the same as all other examinations. *Response*: Reexamination is based on patents and printed publications. Thus the scope of reexamination is narrower than that involved in the examination of a patent application. Certain issues of patentability that may be considered during prosecution of the application may not be considered during reexamination of the patent. If the patent owner desires consideration of questions of patentability not appropriate for reexamination, those issues can only be addressed in a reissue application filed under 35 U.S.C. 251.

(9) *Comment*: One comment queried whether applicants will now be required to discuss all references listed on an IDS statement. *Response*: There is no such requirement in the current rules. Under the guidelines set forth herein, however, references that are not discussed during the prosecution of an application which matures into a patent will not be precluded from consideration in a subsequent reexamination proceeding.

B. The following comments have been adopted to the extent indicated in the corresponding Office response:

(1) *Comment*: Two comments suggested that the statements in Section F to be used in denying or terminating a reexamination were misleading and could cast a shadow on the validity of the patent. One comment further proposed changing the language to, "No new patentability determination has been made in this reexamination proceeding." *Response*: The Office has considered these suggestions, and in an attempt to be more clear, has modified the language in Section F to be used in denying or terminating a reexamination proceeding.

C. The following comments supported the interim guidelines and suggested no changes:

(1) *Comment*: The comments from the bar association supported the guidelines as consistent with *Portola Packaging* and the legislative intent of the reexamination process to resolve validity questions efficiently and economically. In addition, the bar association felt the guidelines were consistent with the Federal Circuit decision in *In re Lonardo* 119 F.3d 960, 43 USPQ2d 1262 (Fed. Cir. 1997), *cert. denied*, 118 S. Ct. 1164 (1998).

(2) The bar association also commented that the guidelines (and in particular the unusual fact patterns set forth in Section E) are consistent with

the rebuttable presumption of administrative correctness relied on by the Court in *Portola Packaging*. Courts presume that Government officials have properly discharged their duties, absent clear evidence to the contrary. Thus, since the presumption of administrative correctness is rebuttable, the guidelines properly provide for reexamination based on a previously considered reference where the evidence clearly shows that the examiner did not appreciate the issue raised in the reexamination request during the prosecution of the application that matured into the patent.

II. Guidelines for Reexamination of Cases in View of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997)

The following guidelines have been developed to assist Patent and Trademark Office (PTO) personnel in determining whether to order a reexamination or terminate an ongoing reexamination in view of the United States Court of Appeals for the Federal Circuit's decision in *In re Portola Packaging, Inc.*¹ These guidelines supersede and supplement any previous guidelines issued by the PTO with respect to reexamination. These guidelines apply to all reexaminations regardless of whether they are initiated by the Commissioner, requested by the patentee, or requested by a third party. These guidelines will be incorporated into Chapter 2200 of the Manual of Patent Examining Procedure (MPEP).

A. Explanation of *Portola Packaging*

In order for the PTO to conduct reexamination, prior art must raise a "substantial new question of patentability."² In *Portola Packaging*, the Federal Circuit held that a combination of two references that were relied upon individually to reject claims during the prosecution of the application which matured into the patent does not raise a substantial new question of patentability in a subsequent reexamination of the patent.³ The Federal Circuit also held that an amendment of the claims during reexamination does not justify using old prior art to raise a substantial new question of patentability.⁴ The Court explained that "a rejection made during reexamination does not raise a substantial new question of patentability if it is supported only by prior art previously considered by the PTO."⁵

B. General Principles Governing Compliance With *Portola Packaging*

If prior art was previously relied upon to reject a claim in a prior related PTO proceeding,⁶ the PTO will not order or conduct reexamination based only on such prior art, regardless of whether that prior art is to be relied upon to reject the same or different claims in the reexamination.

If prior art was not relied upon to reject a claim, but was cited in the record of a prior related PTO proceeding, and its relevance to the patentability of any claim was actually discussed on the record,⁷ the PTO will not order or conduct reexamination based only on such prior art.

In contrast, the PTO may order and conduct reexamination based on prior art that was cited but whose relevance to patentability of the claims was not discussed in any prior related PTO proceeding.

C. Procedures for Determining Whether a Reexamination May be Ordered in Compliance With *Portola Packaging*

PTO personnel must adhere to the following procedures when determining whether a reexamination may be ordered in compliance with the Federal Circuit's decision in *Portola Packaging*:

1. Read the reexamination request to identify the prior art on which the request is based.
2. Conduct any necessary search of the prior art relevant to the subject matter of the patent for which reexamination was requested.⁸
3. Read the prosecution histories of all prior related PTO proceedings.
4. Determine if the prior art in the reexamination request and the prior art found in any search was:
 - (a) relied upon to reject any claim in a prior related PTO proceeding; or
 - (b) cited and its relevance to patentability of any claim discussed in a prior related PTO proceeding.
5. Deny the reexamination request if the decision to order reexamination would be based only on prior art that was, in a prior related PTO proceeding, (a) relied upon to reject any claim, and/or (b) cited and its relevance to patentability of any claim discussed.⁹
6. Order reexamination if the decision to order reexamination would be based at least in part on prior art that was, in a prior related PTO proceeding, neither (a) relied upon to reject any claim, nor (b) cited and its relevance to patentability of any claim discussed and a substantial new question of patentability is raised with respect to any claim of the patent.¹⁰

D. Procedures for Determining Whether an Ongoing Reexamination Must Be Terminated in Compliance With *Portola Packaging*

PTO personnel must adhere to the following procedures when determining whether any current or future ongoing reexamination should be terminated in compliance with the Federal Circuit's decision in *Portola Packaging*:

1. Prior to making any rejection in an ongoing reexamination, determine for any prior related PTO proceeding what prior art was (a) relied upon to reject any claim or (b) cited and discussed.
2. Base any and all rejections of the patent claims under reexamination at least in part on prior art that was, in any prior related PTO proceeding, neither (a) relied upon to reject any claim, nor (b) cited and its relevance to patentability of any claim discussed.
3. Withdraw any rejections based only on prior art that was, in any prior related PTO proceeding, previously either (a) relied upon to reject any claim, or (b) cited and its relevance to patentability of any claim discussed.
4. Terminate reexaminations in which the only remaining rejections are entirely based on prior art that was, in any prior related PTO proceeding, previously (a) relied upon to reject any claim, and/or (b) cited and its relevance to patentability of a claim discussed.¹¹

E. Application of *Portola Packaging* to Unusual Fact Patterns

The PTO recognizes that each case must be decided on its particular facts and that cases with unusual fact patterns will occur. In such a case, the reexamination should be brought to the attention of the Group Director who will then determine the appropriate action to be taken.

Unusual fact patterns may appear in cases in which prior art was relied upon to reject any claim or cited and discussed with respect to the patentability of a claim in a prior related PTO proceeding, but other evidence clearly shows that the examiner did not appreciate the issues raised in the reexamination request or the ongoing reexamination with respect to that art. Such other evidence may appear in the reexamination request, in the nature of the prior art, in the prosecution history of the prior examination, or in an admission by the patent owner, applicant, or inventor.¹²

For example, if a textbook was cited during prosecution of the application which matured into the patent, the record of that examination may show that only select information from the textbook was discussed with respect to

the patentability of the claims.¹³ If a subsequent reexamination request relied upon other information in the textbook that actually teaches what is required by the claims, it may be appropriate to rely on this other information in the textbook to order and/or conduct reexamination.¹⁴

Another example involves the situation where an examiner discussed a reference in a prior PTO proceeding, but did not either reject a claim based upon the reference or maintain the rejection based on the mistaken belief that the reference did not qualify as prior art.¹⁵ If the reexamination request were to explain how and why the reference actually does qualify as prior art, it may be appropriate to rely on the reference to order and/or conduct reexamination.¹⁶

Another example involves foreign language prior art references. If a foreign language prior art reference was cited and discussed in any prior PTO proceeding, *Portola Packaging* may not prohibit reexamination over a complete and accurate translation of that foreign language prior art reference. Specifically, if a reexamination request were to explain why a more complete and accurate translation of that same foreign language prior art reference actually teaches what is required by the patent claims, it may be appropriate to rely on the foreign language prior art reference to order and/or conduct reexamination.

Another example of an unusual fact pattern involves cumulative references. To the extent that a cumulative reference is repetitive of a prior art reference that was previously applied or discussed, *Portola Packaging* may prohibit reexamination of the patent claims based only on the repetitive reference.¹⁷ However, it is expected that a repetitive reference which cannot be considered by the PTO during reexamination will be a rare occurrence since most references teach additional information or present information in a different way than other references, even though the references might address the same general subject matter.

F. Notices Regarding Compliance With *Portola Packaging*

1. If a request for reexamination is denied under C.5 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the notice of reexamination denial should state: "This reexamination request is denied based on *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination has been

made in this reexamination proceeding."

2. If an ongoing reexamination is terminated under D.4 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the Notice of Intent to Issue a Reexamination Certificate should state: "This reexamination is terminated based on *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination has been made in this reexamination proceeding."

3. If a rejection in the reexamination has previously issued and that rejection is withdrawn under D.3 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the Office action withdrawing such rejection should state: "The rejection is withdrawn in view of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination of the claims of the patent in view of such prior art has been made in this reexamination proceeding." If multiple rejections have been made, the Office action should clarify which rejections are being withdrawn.

Dated: March 23, 1999.

Q. Todd Dickinson,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

Endnotes

1. 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir.), *reh'g in banc denied*, 122 F.3d 1473, 44 USPQ2d 1060 (1997).

2. 35 U.S.C. 304.

3. During the original prosecution of the application which led to the patent, the PTO had rejected the claims separately based upon the Hunter and Faulstich references. The PTO never applied the references in combination. During reexamination, *Portola Packaging* amended the patent claims, and for the first time the PTO rejected the amended patent claims based upon the Hunter and Faulstich references in combination. Despite these facts, the Federal Circuit determined that the PTO was precluded from conducting reexamination on those references. 110 F.3d at 790, 42 USPQ2d at 1299.

4. 110 F.3d at 791, 42 USPQ2d at 1299.

5. 110 F.3d at 791, 42 USPQ2d at 1300.

6. Prior related PTO proceedings include the application which matured into the patent that is being reexamined, any reissue application for the patent, and any reexamination proceeding for the patent.

7. The relevance of the prior art to patentability may be discussed by either the applicant, patentee, examiner, or any third party. However, 37 CFR 1.2 requires that all PTO business be transacted in writing. Thus, the PTO cannot presume that a prior art reference was previously relied upon to reject or discussed in a prior PTO proceeding if

there is no basis in the written record to so conclude other than the examiner's initials or a check mark on a PTO 1449 form, or equivalent, submitted with an information disclosure statement. Thus, any discussion of prior art must appear on the record of a prior related PTO proceeding. Examples of generalized statements in a prior related PTO proceeding that would not preclude reexamination include statements that prior art is "cited to show the state of the art," "cited to show the background of the invention," or "cited of interest."

8. See 35 U.S.C. 303 ("On his own initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publication discovered by him. . . ."); see also MPEP § 2244 ("If the examiner believes that additional prior art patents and publications can be readily obtained by searching to supply any deficiencies in the prior art cited in the request, the examiner can perform such an additional search.").

9. See *Portola Packaging, Inc.*, 110 F.3d at 790, 42 USPQ2d at 1299 (examiner presumed to have done his job). There may be unusual fact patterns and evidence which suggest that the examiner did not consider the prior art that was discussed in the prior PTO proceeding. These cases should be brought to the attention of the Group Director. For a discussion of the treatment of such cases, see section E above.

10. If not specified, a reexamination generally includes all claims. However, reexamination may be limited to specific claims. See 35 U.S.C. 304 (authorizing the power to grant reexamination for determination of a "substantial new question of patentability affecting any claim of a patent.") (emphasis added). Thus, the Commissioner may order reexamination confined to specific claims. However, reexamination is not necessarily limited to those questions set forth in the reexamination order. See 37 CFR 1.104(a) ("The examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed. * * *").

11. The Commissioner may conduct a search for new art to determine whether a substantial new question of patentability exists prior to terminating any ongoing reexamination proceeding. See 35 U.S.C. 303. See also 35 U.S.C. 305 (indicating that "reexamination will be conducted according to the procedures established for initial examination," thereby suggesting that the Commissioner may conduct a search during an ongoing reexamination proceeding).

12. See 37 CFR 1.104(c)(3).

13. The file history of the prior PTO proceeding should indicate which portion of the textbook was previously considered. See 37 CFR 1.98(a)(2)(ii) (an information disclosure statement must include a copy of each "publication or that portion which caused it to be listed") (emphasis added).

14. However, a reexamination request that merely provides a new interpretation of a reference already previously relied upon or actually discussed by the PTO does not

create a substantial new question of patentability.

15. For example, the examiner may not have believed that the reference qualified as prior art because: (i) the reference was undated or was believed to have a bad date; (ii) the applicant submitted a declaration believed to be sufficient to antedate the reference under 37 CFR 1.131; or (iii) the examiner attributed an incorrect filing date to the claimed invention.

16. For example, the request could: (i) verify the date of the reference; (ii) undermine the sufficiency of the declaration filed under 37 CFR 1.131; or (iii) explain the correct filing date accorded a claim.

17. For purposes of reexamination, a cumulative reference that is repetitive is one that substantially reiterates verbatim the teachings of a reference that was either previously relied upon or discussed in a prior PTO proceeding even though the title or the citation of the reference may be different.

[FR Doc. 99-7786 Filed 3-30-99; 8:45 am]

BILLING CODE 3510-16-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 25, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.ustreas.gov>. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 339/639 is being increased for swing, reducing the limit for Categories 342/642 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS

numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 25, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 31, 1999, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
339/639	1,216,161 dozen.
342/642	639,146 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 99-7891 Filed 3-30-99; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic; Correction

March 26, 1999.

In the notice published in the **Federal Register** on March 19, 1999 (64 FR 13548), 3rd column, 16th line down, correct "EFFECTIVE DATE: March 23,

1999." to read "EFFECTIVE DATE: March 26, 1999."

In the letter to the Commissioner of Customs published in the **Federal Register** on March 19, 1999 (64 FR 13548), page 13549, 1st Column, 4th line down, correct "Effective on March 23, 1999," to read "Effective on March 26, 1999,."

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99-7892 Filed 3-30-99; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 64 F.R. 14707. PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:00 p.m., Tuesday, April 20, 1999.

CHANGES IN THE MEETING: The meeting to discuss proposed new rules concerning automated access to electronic boards of trade; otherwise, primarily operating outside the United States, and related proposed rule 1.71 was previously announced in error as closed. The meeting is an open meeting and will be held in the Lobby Level Hearing Room.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 418-5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-8001 Filed 3-29-99; 11:54 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

All-Terrain Vehicles; Commission Resolution

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission ("Commission") hereby announces its issuance of a Resolution commending Bombardier Inc. ("Bombardier") for the company's action plan regarding all-terrain vehicle ("ATV") safety.¹

¹ Chairman Ann Brown and Commissioner Thomas H. Moore voted to approve the Resolution. Commissioner Mary Sheila Gall abstained from voting and issued a statement explaining the basis for her abstention. The statement of Commissioner Gall is available to the public through the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.