

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or the forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record. Individual respondents may request confidentiality. If you wish to request that we consider withholding your name, street address, and other contact information (such as Internet address, fax, or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: May 22, 2003.

**Aurene M. Martin,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 03-13672 Filed 5-30-03; 8:45 am]

**BILLING CODE 4310-4J-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-469]

### In the Matter of Certain Bearings and Packaging Thereof; Notice of Commission Determination to Review-in-Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on April 10, 2003, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. Specifically, the Commission has determined to review the issues of registered and common law trademark infringement, false representation as to source, and laches. The Commission has also determined to affirm ALJ Order No. 95, which disqualified complainant's expert witness on the issue of quality control.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3104. Copies of the ALJ's IDs 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, SW., Washington, DC 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 April 16, 2002, based on a complaint filed by SKF USA, Inc. (SKF) of Norristown, PA against fourteen respondents. 67 FR 18632 (2002). Four

respondents remain in the investigation, ten respondents have either settled with complainant or have been found in default. 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 bearings by reason of infringement of registered and common law trademarks, dilution of trademarks, various acts in violation of the Lanham Act, and passing off. A count concerning "unfair pecuniary benefits" was dismissed by the Commission on September 23, 2002.

On April 10, 2003, the ALJ issued his final ID on violation and his recommended determination (RD) on remedy. The ALJ found a violation of section 337 by reason of infringement of SKF's registered and common law trademarks by each of the four remaining respondents, viz., Bearings Limited, Bohls Bearing and Transmission Service, CST Bearing Company, and McGuire Bearings Company, and recommended the issuance of a general exclusion order and cease and desist orders to the respondents found in violation. All parties remaining in the investigation, including the Commission investigative attorney, filed petitions for review on April 21, 2003, and replies to the petitions on April 28, 2003.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the issues of registered and common law trademark infringement, false representation as to source, and laches. On review, the Commission requests briefing based on the evidentiary record on the issues under review and is particularly interested in receiving answers to the following questions:

1. In view of the fact that the parties have cited only one district court case finding gray market trademark infringement based solely on non-physical material differences,<sup>1</sup> please discuss any legal and policy bases for finding gray market trademark infringement and false representation of source where no physical differences

<sup>1</sup> *Osawa & Co. v. B & H Photo*, 589 F. Supp. 1163, 1167-68 (S.D.N.Y. 1984). The parties also cited *Philip Morris, Inc. v. Allen Distribs., Inc.*, 48 F. Supp.2d 844, 853 (S.D. Ind. 1999). That case, however, found a physical material difference in that packages of authorized cigarettes had a particular Universal Product Code (UPC) on their side panel which consumers accumulated and redeemed for merchandise, while the gray market cigarette packages lacked this UPC label. *Philip Morris*, 48 F. Supp.2d at 848.

exist between the authorized and unauthorized products. In addition, as part of the submission on remedy, please discuss any issues that would likely arise in the enforcement of a general exclusion order based solely on non-physical differences between the authorized and gray market bearings.

2. What types of warranty, product recall procedures, and post-sale services accompany sales of authorized SKF USA bearings in the following categories: (a) Sales of SKF USA bearings by Chicago Rawhide; (b) sales of SKF USA bearings under the Roller Bearing Company/Tyson Bearing Company License Agreement; (c) downstream sales of SKF USA bearings by unauthorized distributors, *e.g.*, the three entities discussed on pp. 32–34 of Respondents' Confidential Joint Petition for Review, dated April 21, 2003; (d) sales of SKF USA bearings downstream from authorized SKF USA distributors; (e) sales of SKF USA bearings on the surplus market, (f) sales of SKF USA bearings by formerly authorized distributors, *e.g.*, by Bohls Bearings and Power Transmission Service; (g) sales of SKF USA bearings by respondents who have entered into settlement agreements with complainant in this investigation; (h) downstream sales of SKF USA bearings by original equipment manufacturers that have purchased bearings from SKF USA or its authorized distributors? Based on the evidence of record, please quantify the size of these types of sales to the extent possible. Please compare and contrast the warranties, product recall procedures, and post-sale services that accompany these categories of sales with the warranties, product recall procedures, and post-sale services that accompany the sales of gray market bearings by respondents.

3. In determining what comprises the bundle of services that are integral to the authorized bearings originally put into commerce in the United States by complainant SKF USA, what basis, if any, exists for excluding the categories of bearings listed above in Question 2? In order to find trademark infringement and false designation of source, is it necessary for the Commission to find that SKF USA's bundle of services accompanies sales of substantially all its authorized bearings and differs materially from the bundle of services that accompany the gray market bearings sold by respondents?

4. Please discuss the evidence of record that relates to actual consumer confusion based on warranties, product recall procedures, and post-sale services offered in respect to the authorized and gray market bearings.

5. How does the element of likelihood of consumer confusion factor into the legal standard for finding gray market trademark infringement based solely on non-physical material differences?

6. With respect to non-physical material differences based on SKF USA's post-sale technical and engineering support services, of what relevance is the fact that SKF USA will provide post-sale customer support to consumers who buy SKF bearings from SKF USA authorized distributors even if the authorized distributors have obtained the bearings from the gray market?

7. Please discuss the material differences, if any, between warranties provided by SKF USA and warranties that are express or implied under the UCC, as adopted by the relevant states.

In connection with the final disposition of this investigation, 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 respondents being required to cease and desist from engaging in unfair action 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 that either are 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 orders 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 a 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.

*Written Submissions:* The parties to the investigation are requested to file written submissions on the issues under review. The submission should be concise and thoroughly referenced to the record in this investigation. 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. Such submissions should address the April 10, 2003, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on June 6, 2003. Reply submissions must be filed no later than the close of business on June 13, 2003. 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 14 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 section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. 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 section 210.43 of the Commission's Rules of Practice and Procedure (19 CFR 210.43).

Issued: May 28, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03-13689 Filed 5-30-03; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-768 (Review)]

### Fresh Atlantic Salmon From Chile

**AGENCY:** International Trade Commission.

**ACTION:** Institution of a five-year review concerning the antidumping duty order on fresh Atlantic salmon from Chile.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on fresh Atlantic salmon from Chile would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is July 22, 2003. Comments on the adequacy of responses may be filed with the Commission by August 15, 2003. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** June 2, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 03-5-075, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On July 30, 1998, the Department of Commerce issued an antidumping duty order on imports of fresh Atlantic salmon from Chile (63 FR 40699). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) *The Subject Country* in this review is Chile.

(3) *The Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* as all fresh Atlantic salmon.

(4) *The Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of all fresh Atlantic salmon. The Commission further determined that the domestic industry does not include firms who merely process whole salmon into cuts. One Commissioner defined the *Domestic Industry* differently.

(5) *The Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is July 30, 1998.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign

manufacturer or through its selling agent.

**Participation in the review and public service list.**—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.**—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification.**—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this