



## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1435]

### **Certain Electrolyte Containing Beverages and Labeling and Packaging Thereof (II); Notice of a Commission Determination to Review in Part an Initial Determination Granting a Motion for Summary Determination of Violation; Request for Written Submissions on the Issue Under Review and On Remedy, The Public Interest, and Bonding**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to review in part an initial determination (“ID”) (Order No. 18) of the presiding administrative law judge (“ALJ”) granting a motion for summary determination of violation. The Commission requests written submissions from the parties on the issue under review and from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

**FOR FURTHER INFORMATION CONTACT:** Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 February 3, 2025, based upon a complaint, as supplemented (the “Complaint”), filed on behalf of CAB Enterprises, Inc. of Houston, Texas; Sueros y Bebidas Rehidratantes, S.A. de C.V. of

Guadalajara, Mexico; Brazos River Ventures LLC of Albany, New York; and Electrolit Manufacturing USA Inc. of Albany, New York (collectively, “Complainants”). 90 FR 8811-12 (Feb. 3, 2025). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (“section 337”) based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electrolyte containing beverages and labeling and packaging thereof by reason of infringement of one or more of U.S. Trademark Registration No. 4,222,726; U.S. Trademark Registration No. 4,833,885; U.S. Trademark Registration No. 4,717,350; and U.S. Trademark Registration No. 4,717,232. *Id.* The Complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. *Id.* at 8811.

The Commission’s notice of investigation named eight respondents: Empacadora Torres Mora, S. de R.L. de C.V. of Monterrey, Mexico; Version Expotaciones, S.R.L. de C.V. of Tijuana, Mexico; Mabed Distribuciones, S.A. de C.V. of Matamoros, Mexico; Salfe International Trade, S. de R.L. de C.V. (“Salfe”) of Garza Garcia, Mexico; Exportadora de Abarrotes del Pacifico, S.A. de C.V. (“Pacifico”) of Torreon, Mexico; Centro de Distribucion de Carbon Allende, S.A. de C.V. of Allende, Mexico; Wenceslao Colunga Ruiz (“Ruiz”) of Camargo, Mexico; and Distribuidora de Productos Heres, S.A. de C.V. (“Heres”) of Allende, Mexico. *Id.* at 8812. The Office of Unfair Import Investigations (“OUII”) is also a party to this investigation. *Id.*

The investigation was terminated with respect to respondents Ruiz and Heres based on withdrawal of the complaint. Order No. 7 (Mar. 11, 2025), *unreviewed by* Comm’n Notice (Apr. 9, 2025).

On April 18, 2025, the ALJ issued an order requiring the remaining respondents in the investigation to show cause why they should not be found in default. Order No. 9 (Apr. 18, 2025). Respondent Pacifico filed an answer to the Complaint on May 1, 2025, and the investigation was subsequently terminated with respect to Pacifico based on a consent order.

Order No. 10 (May 23, 2025), *unreviewed by* Comm'n Notice (June 17, 2025). The investigation was also terminated with respect to respondent Salfe based on a consent order.

Order No. 12 (June 25, 2025), *unreviewed by* Comm'n Notice (July 14, 2025). The remaining four respondents did not file any response to the complaint and notice of investigation or to the order to show cause for failure to do so.

On July 21, 2025, Complainants filed a motion for summary determination of violation, and on July 22, 2025, Complainants filed a motion for leave for acceptance of a corrected motion for summary determination, which was granted pursuant to Order No. 15 (July 22, 2025). On August 4, 2025, OUII filed a response in support of Complainants' motion.

On September 10, 2025, the ALJ issued the subject ID granting the motion for summary determination, which included a recommended determination on remedy and bonding. No petitions for review of the ID were filed.

Having reviewed the record of the investigation, including the ID, the pleadings, and the parties' briefing on summary determination, the Commission has determined to review the ID in part. Specifically, the Commission has determined to review the ID's findings with respect to the economic prong of the domestic industry requirement. The Commission has determined not to review the other findings in the ID.

In connection with its review, the Commission requests responses to the following question:

Question 1: On or before the date of the complaint, explain how and to what extent the investments relating to the Texas manufacturing facility were with respect to the protected domestic industry articles as required under section 337(a)(2). Please provide citation to any evidence in the record that would support this. If such investments were not exclusively with respect to the protected domestic industry articles, explain how the asserted domestic investments for the facility can be allocated with respect to the protected domestic

industry articles.

The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents 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 either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

In connection with its remedy determination, the Commission requests responses to the following question:

Question 2: Identify evidence or allegations that the foreign defaulting respondents maintain commercially significant inventories and/or engage in significant commercial operations in the United States.

The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and 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 U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). 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:** Parties are requested to file written responses to the briefing questions above. 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 recommended determination by the ALJ on remedy and bonding.

In their initial submission, Complainants are also requested to identify the remedy sought and Complainants and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainants are further requested to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. All initial written submissions, from the parties and/or third parties/interested government agencies, and proposed remedial orders from the parties must be filed no later than close of business on January 5, 2026. All reply submissions must be filed no later than the close of business on January 12, 2026. Opening submissions from the parties are limited to 20 pages. Reply submissions shall be limited to 10 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or

before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number (Inv. No. 337-TA-1435) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on December 15, 2025.

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 Part 210 of the Commission's Rules of

Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: December 15, 2025.

**Lisa Barton,**

*Secretary to the Commission.*

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