

Dated: October 15, 2010.

David Tarler,

Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee.

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INTERNATIONAL TRADE COMMISSION

[Investigation Nos. TA-131-035 and TA 2104-027]

U.S.-Trans-Pacific Partnership Free Trade Agreement Including Malaysia: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations and scheduling of hearing.

SUMMARY: Following receipt on October 5, 2010, of a request from the United States Trade Representative (USTR), the Commission instituted investigation nos. TA-131-035 and TA-2104-027, *U.S.-Trans-Pacific Partnership Free Trade Agreement Including Malaysia: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports.*

DATES:

November 10, 2010: Deadline for filing requests to appear at the public hearing.

November 12, 2010: Deadline for filing pre-hearing briefs and statements.

November 17, 2010: Public hearing.

November 26, 2010: Deadline for filing post-hearing briefs and statements.

November 26, 2010: Deadline for filing all other written submissions.

January 7, 2011: Transmittal of Commission report to the United States Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

FOR FURTHER INFORMATION CONTACT:

Heidi Colby-Oizumi, Project Leader (202-205-3391, heidi.colby@usitc.gov), or Falan Yinug, Deputy Project Leader (202-205-2160, falan.yinug@usitc.gov),

for information specific to these investigations. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091, william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819, margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). 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.

Background: In response to an earlier request from the USTR, the Commission, on June 2, 2010, delivered a report to the USTR containing its advice and assessment in investigation Nos. TA-131-034 and TA-2104-026, *U.S.-Trans-Pacific Partnership Free Trade Agreement: Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports*, relating to the effects of a possible free trade agreement with seven countries (Australia, Brunei Darussalam, Chile, New Zealand, Peru, Singapore, and Vietnam).

In his letter of October 5, 2010, the USTR advised the Commission that Malaysia has joined the negotiations, known as the Trans-Pacific Partnership (TPP) negotiations, and requested that the Commission provide certain advice under section 131 of the Trade Act of 1974 (19 U.S.C. 2151) and an assessment under section 2104(b)(2) of the Trade Act of 2002 (19 U.S.C. 3804(b)(2)) with respect to the effects of providing duty-free treatment for imports from all eight countries.

More specifically, the USTR, under authority delegated by the President and pursuant to section 131 of the Trade Act of 1974, requested that the Commission provide a report containing its advice as to the probable economic effect of providing duty-free treatment for imports of products from the eight TPP partner countries (Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam) on (i) industries in the United States producing like or directly competitive products, and (ii) on consumers. The USTR asked that the Commission's analysis consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS) for which tariffs will remain, taking into account

implementation of U.S. commitments in the World Trade Organization and under U.S. free trade agreements in force between the United States and TPP partner countries. The USTR asked that the advice be based on the HTS in effect during 2010 and trade data for 2008. The USTR also requested that the Commission, in preparing its advice, assume that any known U.S. non-tariff barrier will not be applicable to such imports, and that the Commission note in its report any instance in which the continued application of a U.S. non-tariff barrier would result in different advice with respect to the effect of the removal of the duty.

In addition, the USTR requested that the Commission prepare an assessment, pursuant to section 2104(b)(2) of the Trade Act of 2002, of the probable economic effects of eliminating tariffs on imports from the TPP countries of those agricultural products on the list attached to his letter on (i) industries in the United States producing the product concerned, and (ii) the U.S. economy as a whole.

The USTR asked that the Commission identify in its report, among other things, any changes in its advice from the advice delivered on June 2, 2010, that did not include Malaysia. The USTR also stated that the Commission need not repeat analysis and discussion included in that earlier report. The USTR further asked that the Commission, to the extent appropriate, draw from discussion and analysis in its report delivered to USTR on June 30, 2006, relating to a U.S.-Malaysia FTA (investigation Nos. TA-131-033 and TA-2104-022, *U.S.-Malaysia Free Trade Agreement: Advice Concerning the Probable Economic Effect of Providing Duty-Free Treatment for Imports*).

As requested, the Commission will provide its report to the USTR by January 7, 2011. The USTR indicated that those sections of the Commission's report that relate to the advice and assessment of probable economic effects will be classified. The USTR also indicated that he considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: A public hearing in connection with these investigations will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m., November 17, 2010. Requests to appear at the public hearing should be filed with the Secretary not later than 5:15 p.m., November 10, 2010, in accordance with the requirements in

the "Submissions" section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., November 12, 2010; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., November 26, 2010.

Written Submissions: In lieu of or in addition to participating in the hearing and filing briefs and statements relating to the hearing, interested parties are invited to file written submissions concerning these investigations. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., November 18, 2010. All written submissions must conform with the provisions of § 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000).

Any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of the investigations in the report it sends to the USTR. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: October 15, 2010.

William R. Bishop,

Acting Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that on September 17, 2010, an electronic version of a proposed Consent Decree was lodged in the United States District Court for the Western District of Kentucky in *United States and the Commonwealth of Kentucky v. Westlake Vinyls, Inc. and Westlake PVC Corporation*, No. 5:10-CV-00168-TBR. The Consent Decree resolves claims of the United States and the Commonwealth of Kentucky against Westlake Vinyls, Inc. and Westlake PVC Corporation ("Westlake") for civil penalties and injunctive relief based on violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, as well as the Air Implementation Plan for the Commonwealth of Kentucky (the "Kentucky SIP") promulgated and approved by EPA pursuant to the Clean Air Act; the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and applicable laws and regulations implementing the Clean Water Act; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.* and implementing regulations; Sections 103(a) and 109(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9603(a) and 9609(c), and implementing regulations codified at 40 CFR part 302; and sections 304, 313 and 325(b)(3) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. 11004, 11013 and 11045(b)(3).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States et al. v. Westlake Vinyls, Inc. et al.*, No. 5:10-CV-00168-TBR and DOJ No. 90-5-2-1-08097.

Under the proposed consent decree, Westlake will perform injunctive relief. With regard to Clean Air Act injunctive relief, Westlake will implement a reroute of certain vent streams so that at

least 40% of the emissions from an absorber vent can be routed to the operating incinerator in case of an incinerator outage. The company has installed flow meters that will measure for compliance. Westlake will follow a specific protocol for three years in the case of both planned and unplanned incinerator outages. During all incinerator outages, Westlake will maintain the absorber vent as a Group 2 process vent under the Hazardous Organic NESHAP regulations.

For three years, Westlake will also implement an enhanced Leak Detection and Repair program to control emissions of hazardous air pollutants. In addition, Westlake will implement an enhanced daily monitoring for the cooling towers according to a protocol approved by EPA and the Commonwealth.

Under the consent decree, Westlake will submit revised Leak Detection and Elimination Plans, as required by applicable regulations, for the vinyl chloride and the polyvinyl chloride plants, including a Leak Detection Plan and an Area Monitoring Plan, with specific changes as outlined in the consent decree.

Westlake will review the most recent Total Annual Benzene ("TAB") report for the vinyl chloride plant to determine if the TAB report is in compliance with the compliance option Westlake has selected and will provide a report to EPA and the Commonwealth.

For purposes of New Source Review permitting under the Clean Air Act, the consent decree specifies that the polyvinyl chloride plant and the vinyl chloride plant are under Westlake's common control, and Westlake will not contest administratively or judicially a finding by the Commonwealth or any other permitting authority under the Clean Air Act that the two plants are a "single source" for purposes of permitting.

With respect to Resource Conservation and Recovery Act injunctive relief, Westlake will conduct a subsurface investigation and will perform any necessary remediation at various lift stations at the polyvinyl chloride plant. Westlake will sample and test the integrity of lift stations 7 and 9 pursuant to an approved workplan and will perform a subsurface investigation of the facility if EPA decides one is required. In any case, Westlake will perform an investigation for Lift 8 pursuant to an approved work plan. Westlake will implement any corrective measures required by EPA, and will post financial assurance.

With regard to reporting of releases of hazardous substances under EPCRA/CERCLA, Westlake will review its