

On September 18 and 25, 2018, respectively, complainant and respondents each filed a brief and a reply brief on all issues for which the Commission requested written submissions. The Commission also received written submissions on the public interest from interested non-parties on September 18, 2018.

Having reviewed the record in this investigation, including the final ID and the parties' written submissions, the Commission has determined to affirm-in-part, reverse-in-part, modify-in-part, and strike certain portions of the final ID's findings under review. Specifically, the Commission has: (1) Reversed the ID's finding that Hytera's accused redesigned products infringe claims 9 and 13–15 of the '284 patent under the doctrine of equivalents; (2) struck the first and second sentences of the fourth paragraph on page 8 in Order No. 38, and struck the third sentence of this paragraph "There is no analysis" and substituted "There is no analysis in Dr. Akl's Report," and struck the second sentence of the first full paragraph on page 9 of Order No. 38; (3) affirmed Order No. 47 and supplemented and clarified its reasoning; (4) took no position on the ID's drawing of an adverse inference against Hytera as part of its finding of indirect infringement; and (5) found that Hytera's redesigned products do not infringe the '701, '869, or '991 patents. Accordingly, the Commission has found that there is a violation of section 337 with respect to the '991, '869, and '701 patents.

Having found a violation of section 337 as to these patents, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is (1) a limited exclusion order prohibiting the unlicensed entry of two-way radio equipment and systems, related software and components thereof that infringe one or more of claims 1, 6, 17, and 21 of the '869 patent; claims 1 and 11 of the '701 patent; and claims 7–8 of the '991 patent, which are manufactured abroad by or on behalf of, or are imported by or on behalf of, Hytera, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; and (2) cease and desist orders prohibiting Hytera America or Hytera Communications America from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents

or distributors for two-way radio equipment and systems, related software and components thereof that infringe one or more of claims 1, 6, 17, and 21 of the '869 patent; claims 1 and 11 of the '701 patent; and claims 7–8 of the '991 patent.

The Commission further determined that the public interest factors enumerated in section 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude issuance of the limited exclusion order or cease and desist orders. Finally, the Commission determined that a bond of 44 percent of the entered value of the covered products is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)). The Commission has also issued an opinion explaining the basis for the Commission's action. The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is terminated.

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: November 16, 2018.

**Lisa Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

### [Investigation Nos. TA-131-044 and TPA-105-005]

#### U.S.-EU Trade Agreement: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Currently Dutiable Imports; Institution of Investigation and Scheduling of Hearing

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of investigation and scheduling of a public hearing.

**SUMMARY:** Following receipt on November 9, 2018, of a request from the United States Trade Representative (USTR) for a report containing advice and an assessment, the Commission instituted Investigation Nos. TA-131-044 and TPA-105-005, *U.S.-EU Trade Agreement: Advice on the Probable Economic Effect of Providing Duty-free*

#### Treatment for Currently Dutiable Imports.

**DATES:** December 6, 2018: Deadline for filing requests to appear at the public hearing.

December 10, 2018: Deadline for filing prehearing briefs and statements.

December 18, 2018: Public hearing.

January 4, 2019: Deadline for filing post-hearing briefs and submissions.

January 4, 2019: Deadline for filing all other written statements.

March 19, 2019: Transmittal of Commission report to the USTR.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, U.S. 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 <https://edis.usitc.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Project Leader Diana Friedman (202-205-3433 or [diana.friedman@usitc.gov](mailto:diana.friedman@usitc.gov)) or Deputy Project Leader Mary Roop (202-708-2277 or [mary.roop@usitc.gov](mailto:mary.roop@usitc.gov)) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaghlin@usitc.gov](mailto:margaret.olaghlin@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 website (<https://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.

#### SUPPLEMENTARY INFORMATION:

**Background:** In his letter of November 8, 2018, the USTR 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 105(a)(2)(B)(i)(III) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4204(a)(2)(B)(i)(III)) with respect to the effects of providing duty-free treatment for imports of products from the EU.

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 currently dutiable products from the EU on (i) industries in the United States producing like or directly competitive products, and (ii) 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 U.S. tariffs will remain, taking into account implementation of U.S. commitments in the World Trade Organization. The USTR asked that the advice be based on the HTS in effect during 2018 and trade data for 2017.

In addition, the USTR requested that the Commission prepare an assessment, as described in section 105(a)(2)(B)(i)(III) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, of the probable economic effects of eliminating tariffs on imports from the EU of those agricultural products described in the list attached to the USTR's request letter on (i) industries in the United States producing the products concerned, and (ii) the U.S. economy as a whole. The USTR's request letter and list of agricultural products are posted on the Commission's website at <https://www.usitc.gov>.

For the purposes of these analyses, the USTR requested that the Commission assume that the United Kingdom will no longer be a Member State of the EU. 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 interagency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege. As requested, the Commission will provide its report to USTR as soon as possible, which is March 19, 2019.

**Public Hearing:** A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on Tuesday, December 18, 2018. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., Thursday, December 6, 2018, in accordance with the requirements in the "Written Submissions" section below. All prehearing briefs and statements should be filed not later than 5:15 p.m., Monday, December 10, 2018, and all

post-hearing briefs and statements should be filed not later than 5:15 p.m., Friday, January 4, 2019. For further information, call 202-205-2000.

**Written Submissions:** In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., January 4, 2019. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. Eastern Time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraphs for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802).

**Confidential Business Information:** Any submissions that contain confidential business information must also conform to the requirements of section 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 is 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 this investigation in the report it sends to the USTR. Additionally, all information, including confidential business information, submitted in 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 (a) for cybersecurity purposes or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should mark the summary as having been provided for that purpose. The summary should be clearly marked as "summary" at the top of the page. The summary may not exceed 500 words, should be in MS Word format or a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.  
Issued: November 20, 2018.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of the Federal Unemployment Tax Act (FUTA) Credit Reduction Applicable in 2018

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Sections 3302(c)(2)(A) and 3302(d)(3) of the FUTA provide that employers in a State that has outstanding advances under Title XII of the Social Security Act on January 1 of two or more consecutive years are subject to a reduction in credits otherwise available against the FUTA tax for the calendar year in which the most recent such January 1 occurs, if advances remain on November 10 of that year. Further, Section 3302(c)(2)(C) of FUTA provides for an additional credit reduction for a year if a State has outstanding advances on five or more