

some individuals possibly still present in the main stem of the White River, Spring River, and Jacks Fork (Briggler 2013, pers. comm.; Irwin 2013, pers. comm.).

The primary reason for Ozark hellbender population declines remains unclear. However, several potential factors have been identified and include degraded water quality, habitat loss resulting from impoundments and sedimentation, disease, illegal and/or scientific collection, and potential increased predation from some native and non-native species of stocked fish (Service 2011). Population declines have necessitated the use of captive propagation efforts to ensure the long-term survival of the species until threats are better understood and abated.

Under the Act, the Service added the Ozark hellbender to the Federal List of Endangered and Threatened Wildlife as an endangered species on October 6, 2011 (76 FR 61956). This final rule took effect on November 7, 2011.

### Recovery Criteria

The draft recovery criteria are summarized below. For the recovery strategy, management actions, and estimated time and costs associated with recovery, refer to the Draft Recovery Plan for the Ozark hellbender (see **ADDRESSES** for document availability).

The ultimate recovery goal is to remove the Ozark hellbender from the Federal List of Endangered and Threatened Wildlife (“delist”) by ensuring the long-term viability of the species in the wild. In the recovery plan, we define the following criteria for reclassification (“downlisting” from endangered to threatened) and delisting based on the best available information on the species.

#### Downlisting Criteria

Because each of the three extant Ozark hellbender populations is genetically unique, all three populations are necessary to maintain the evolutionary potential of the species. Given the small range of each population, the persistence of all three populations is also necessary to guard against extinction from catastrophic events such as extreme flooding, drought, and chemical spills. Therefore, to downlist the Ozark hellbender, the following criteria should be achieved for each of three Ozark hellbender populations (the North Fork White River, Eleven Point River, and Current River):

1. There is a positive population trend for a 15 year period.<sup>1</sup>
2. There is evidence of successful recruitment to maintain a sustaining population, with recruitment defined as attainment of sexual maturity by young.
3. Habitat quantity and quality are sufficient to support all life stages.
4. Within each watershed the number and distribution of occupied habitat patches and abundance of individuals within these patches is such that (1) the population is resilient to stochastic and catastrophic events and (2) connectivity and gene flow is sufficient to maintain genetic diversity and provide for natural re-establishment if a patch is extirpated.
5. Causes of population declines have been identified, and it is clear what actions are needed to address these threats.

#### Delisting Criteria

To delist the Ozark hellbender, the following criteria should be achieved for each of three Ozark hellbender populations (the North Fork White River, Eleven Point River, and Current River):

1. Downlisting criteria have been met.
2. Threats and causes of decline have been reduced or eliminated such that delisting criterion 1 will continue to be met into the foreseeable future.

#### Availability of Public Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

#### Lori Nordstrom,

*Assistant Regional Director, Ecological Services, Midwest Region.*

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<sup>1</sup> Because the Ozark hellbender is a long-lived species, population trends take a longer amount of time to be realized. Thus, a longer period of time is needed to monitor population trends.

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1145]

### Certain Botulinum Toxin Products, Processes for Manufacturing or Relating to Same and Certain Products Containing Same Commission Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and a Cease and Desist Order; Termination of the Investigation

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 in the above-captioned investigation. The Commission has determined to issue a limited exclusion order (“LEO”) prohibiting the importation by respondents Daewoong Pharmaceuticals Co., Ltd. (“Daewoong”) of Seoul, South Korea and Evolus, Inc. (“Evolus”) of Irvine, California (collectively, “Respondents”) of certain botulinum toxin products, processes for manufacturing or relating to same and certain products containing same. The Commission has also issued a cease and desist order (“CDO”) directed to respondent Evolus. The investigation is terminated.

#### FOR FURTHER INFORMATION CONTACT:

Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. 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>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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:** On March 6, 2019, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Medytox Inc. of Seoul, South Korea; Allergan Limited of Dublin, Ireland; and Allergan, Inc. of

Irvine, California (collectively, “Complainants”). See 84 FR 8112–13 (Mar. 6, 2019). The complaint, as supplemented, alleges a violation of section 337 based upon the importation and sale in the United States of certain botulinum toxin products, processes for manufacturing or relating to same and certain products containing same by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry in the United States. See *id.* The notice of investigation names Daewoong and Evolus as respondents in this investigation. See *id.* The Office of Unfair Import Investigations is also a party to the investigation. See *id.*

On July 6, 2020, the Administrative Law Judge (“ALJ”) issued a final initial determination (“FID”) finding a violation of section 337 based on the importation and sale in the United States of Respondents’ botulinum neurotoxin products by reason of the misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. See FID at 273. The ALJ issued a recommended determination (“RD”) recommending that, if a violation is found, the Commission issue: (1) An LEO barring entry of certain botulinum toxin products that are imported and/or sold by respondents Daewoong and Evolus; and (2) a CDO against Evolus. The RD also recommends that the Commission impose a bond based on price differential during the period of Presidential review.

On July 28, 2020, the Commission issued a notice requesting statements on the public interest. See 85 FR 46711 (Aug. 3, 2020) (“the PI Notice”). On August 17–18, 2020, several non-parties filed submissions in response to the PI Notice.

On September 21, 2020, the Commission issued a notice determining to review the FID in part. See 85 FR 60489–90 (Sept. 25, 2020) (“the WTR/Remedy Notice”). Specifically, the Commission determined to review the FID’s findings with respect to subject matter jurisdiction, standing, trade secret existence and misappropriation, and domestic industry, including the existence of such domestic industry as well as any actual or threatened injury thereto. See *id.* The Commission determined not to review the remainder of the FID. See *id.* The Commission’s notice also requested written submissions on remedy, the public interest, and bonding. See *id.*

On October 9, 2020, the parties, including the IA, filed written submissions in response to the WTR/Remedy Notice, and on October 16, 2020, the parties filed responses to each other’s submissions. In addition, on October 5–9, 2020, several non-parties filed submissions on the proposed remedy and/or the public interest in response to the WTR/Remedy Notice.

Having examined the record of this investigation, including the FID, the RD, and the parties’ and non-parties’ submissions, the Commission has determined to affirm the FID in part and reverse in part. Specifically, as explained in the Commission Opinion filed concurrently herewith, the Commission has determined to affirm with modification the FID’s findings with respect to subject matter jurisdiction, standing, domestic industry as to BOTOX®, and trade secret existence and misappropriation as it relates to Medytox’s manufacturing processes. The Commission has also determined to reverse the FID’s finding that a trade secret exists with respect to Medytox’s bacterial strain. All findings in the FID that are not inconsistent with the Commission’s determination are affirmed.

Accordingly, the Commission finds that there is a violation of section 337. The Commission has determined that the appropriate remedy is an LEO against Respondents’ botulinum toxin products, and a CDO against Evolus, barring Respondents’ unfair acts for a duration of 21 months. The Commission has also determined that the public interest factors enumerated in subsections 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude the issuance of the LEO and CDO. The Commission has further determined to set a bond during the period of Presidential review in an amount of \$441 per 100U vial of Respondents’ accused products.

The Commission’s orders 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 Commission’s vote on this determination took place on December 16, 2020.

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 16, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–649 and 731–TA–1523 (Final)]**

### **Twist Ties From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations**

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

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–649 and 731–TA–1523 (Final) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of twist ties from China, provided for in subheadings 8309.90.0000 and 5609.00.3000 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (“Commerce”) to be subsidized and sold at less-than-fair-value.

**DATES:** December 3, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher W. Robinson ((202) 205–2542), 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. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

#### **SUPPLEMENTARY INFORMATION:**

**Scope.**—For purposes of these investigations, Commerce has defined the subject merchandise as twist ties, which are thin, bendable ties for closing containers, such as bags, bundle items, or identifying objects. A twist tie in