

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

**CERTAIN ROLLED-EDGE RIGID
PLASTIC FOOD TRAYS**

Investigation No. 337-TA-1203

LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has found Ningbo Linhua Plastic Co., Ltd. (“Respondent”) in default pursuant to 19 U.S.C. § 1337(g)(1) and 19 C.F.R. § 210.16 for failing to respond to a Notice of Investigation and a Complaint that alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain rolled-edge rigid plastic food trays that infringe one or more of claim 9 of U.S. Patent No. 9,908,281 (“the ’281 patent”) and claims 1, 12, 20, and 21 of U.S. Patent No. 10,562,680 (“the ’680 patent”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of rolled-edge rigid plastic food trays manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude the issuance of the limited exclusion order, and that the

bond during the period of Presidential review shall be in the amount of one hundred percent (100%) of the entered value of the covered articles.

Accordingly, the Commission hereby **ORDERS** that:

1. Rolled-edge rigid plastic food trays (as defined in paragraph 2 below) that infringe one or more of claim 9 of the '281 patent and claims 1, 20, 20, and 21 of the '680 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent, or its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of, or with the permission of, the patent owner or as provided by law.
2. The rolled-edge rigid plastic food trays that are subject to this Order (“covered articles”) are as follows: Open-topped food containers made of rigid plastic and having a smooth outer periphery attributable to turning or rolling of the rigid plastic at or near its peripheral edge.
3. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred percent (100%) of the entered value of the products, pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43,251), from the day after this Order is received by the United States

Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes.

4. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses to substantiate the certification.
5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.
6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.76).
7. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

8. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: February 25, 2021

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Claire Comfort, Esq.**, and the following parties as indicated, on **February 25, 2021**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Clearly Clean Products, LLC
and Converter Manufacturing, LLC:**

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- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Respondent:

Ningbo Linhua Plastic Co., Ltd.
No. 13 Dongfan Road Xiwu,
Fenghua 315000 China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant