

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

**CERTAIN KRILL OIL PRODUCTS AND
KRILL MEAL FOR PRODUCTION OF
KRILL OIL PRODUCTS**

Investigation No. 337-TA-1019

NOTICE OF COMMISSION DETERMINATION

- (1) NOT TO REVIEW AN INITIAL DETERMINATION GRANTING-IN-PART AN
UNOPPOSED MOTION TO TERMINATE THE INVESTIGATION BASED ON
WITHDRAWAL OF THE COMPLAINT AS TO CERTAIN RESPONDENTS AND
(2) NOT TO REVIEW AN INITIAL DETERMINATION GRANTING AN UNOPPOSED
MOTION TO TERMINATE THE INVESTIGATION BASED ON A SETTLEMENT
AGREEMENT AS TO THE REMAINING RESPONDENT;
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 determined (1) not to review the initial determination (“ID”) (Order No. 14) granting-in-part an unopposed motion to terminate the investigation based on the withdrawal of the complaint as to certain respondents and (2) not to review the ID (Order No. 16) granting an unopposed motion to terminate the investigation based on a settlement agreement as to the remaining respondent.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 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 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: The Commission instituted this investigation on September 16, 2016, based on a complaint filed by Aker BioMarine Antarctic AS of Lysaker, Norway and Aker BioMarine Manufacturing, LLC of Houston, Texas (collectively, “Complainants”). 81 FR 63805 (Sept. 16, 2016). The complaint alleges violations of section

337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain krill oil products and krill meal for production of krill oil products by reason of infringement of certain claims of U.S. Patent Nos. 9,028,877; 9,078,905; 9,072,752; 9,320,765; and 9,375,453.

Id. The notice of investigation names as respondents Avoca Inc. of Merry Hill, North Carolina (“Avoca”) and Olympic Holding AS of Fosnavåg, Norway; Rimfrost AS of Fosnavåg, Norway; Emerald Fisheries AS of Fosnavåg, Norway; Rimfrost USA, LLC of Merry Hill, North Carolina; Rimfrost New Zealand Limited of Nelson, New Zealand; and Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada (collectively, “non-Avoca Respondents”). *Id.* The Office of Unfair Import Investigations was not named as a party to the investigation. *Id.*

On April 19, 2017, Complainants filed a motion to terminate the investigation based on a settlement agreement with Avoca and the withdrawal of the complaint as to the non-Avoca Respondents. Avoca and the non-Avoca Respondents did not oppose the termination of the investigation, but Avoca disputed certain redactions in the settlement agreement.

On April 24, 2017, the presiding administrative law judge (“ALJ”) issued an ID, Order No. 14, granting-in-part the motion to terminate the investigation based on the withdrawal of the complaint as to the non-Avoca Respondents. The ALJ found as to the non-Avoca Respondents there were no agreements between the parties concerning the subject matter of the investigation. The ALJ also found no extraordinary circumstances preventing the termination of the investigation as to the non-Avoca Respondents and that termination is in the public interest. No petitions for review of this ID were filed.

On May 2, 2017, the ALJ issued an ID, Order No. 16, granting the motion to terminate the investigation based on a settlement agreement as to Avoca, thus terminating the investigation in its entirety. The ALJ found that the motion complied with Commission Rule 210.21(b)(1) and that the redactions in the public version of the settlement agreement were addressed by a separate order, Order No. 15. The ALJ also found that termination was in the public interest. No petitions for review of this ID were filed.

The Commission has determined not to review the subject IDs.

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 C.F.R. part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 23, 2017