

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington D.C. 20436

In the Matter of)

CERTAIN CAST RAILWAY WHEELS, CERTAIN)
PROCESSES FOR MANUFACTURING OR)
RELATING TO SAME AND CERTAIN PRODUCTS)
CONTAINING SAME)

Inv. No. 337-TA-655

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW A FINAL INITIAL
DETERMINATION FINDING A VIOLATION OF SECTION 337; REQUEST FOR
WRITTEN SUBMISSIONS REGARDING REMEDY, BONDING, AND THE
PUBLIC INTEREST**

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of section 337 in the above-captioned investigation, and is requesting written submissions regarding remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202-708-2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. Copies of all nonconfidential 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, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on the 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, 2008, based on a complaint filed on August 14, 2008, by Amsted Industries Incorporated (“Amsted”) of Chicago, Illinois. *73 Fed. Reg.* 53441-42 (Sept. 16, 2008). The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cast steel railway wheels and certain products containing same by reason of misappropriation of trade secrets, the

threat or effect of which is to substantially injure an industry in the United States. The complaint named four respondents: Tianrui Group Company Limited of China; Tianrui Group Foundry Company Limited of China (collectively “Tianrui”); Standard Car Truck Company (“SCT”), Inc. of Park Ridge, Illinois; and Barber Tianrui Railway Supply, LLC (“Barber”) of Park Ridge, Illinois.

On October 16, 2009, the ALJ issued his final ID finding a violation of section 337 by respondents. He also issued his recommendation on remedy and bonding during the period of Presidential review. On October 30, 2009, SCT and Barber (“SCT-Barber”) filed a joint petition for review of the final ID. Tianrui filed a petition for review and complainant Amsted filed a contingent petition for review on November 2, 2009. Amsted filed responses to SCT-Barber’s and Tianrui’s petitions on November 9 and 10, respectively, and SCT-Barber and Tianrui filed their responses on November 10. The Commission investigative attorneys filed responses to the three petitions on November 10. The Commission has determined not to review the subject ID.

In connection with the final disposition of this investigation, the Commission may issue an order that results in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission’s action. *See* section 337(j), 19 U.S.C. § 1337(j) and the Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles are entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding, and such submissions should address the recommended determination by the ALJ on remedy and bonding. The complainant and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the HTSUS numbers under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than close of business on December 29, 2009. Reply submissions must be filed no later than the close of business on January 6, 2010. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-46 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.42-46.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: December 17, 2009