

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OMEGA-3 EXTRACTS FROM
MARINE OR AQUATIC BIOMASS AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-877

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE THE
INVESTIGATION WITH RESPECT TO RESPONDENTS AKER BIOMARINE AS,
AKER BIOMARINE ANTARCTIC AS, AND AKER BIOMARINE ANTARCTIC USA,
INC. ON THE BASIS OF A SETTLEMENT AGREEMENT**

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 an initial determination (“ID”) (Order No. 40) of the presiding administrative law judge (“ALJ”) granting a joint motion to terminate the investigation with respect to respondents Aker Biomarine AS, Aker Biomarine Antarctic AS, and Aker Biomarine Antarctic USA, Inc. on the basis of a settlement agreement in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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, S.W., 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 this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 17, 2013, based on a complaint filed on January 29, 2013, as amended on March 21, 2013, and supplemented on April 1, 2013, on behalf of Neptune Technologies & Bioressources Inc. of Laval, Québec, Canada and Acasti Pharma Inc., also of Laval, Québec, Canada (collectively, “Complainants”). 78 *Fed. Reg.* 22898-99 (April 17, 2013). The amended complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale within the United States after importation of certain omega-3 extracts from marine or aquatic biomass and products containing the same by reason of

infringement of one or more of claims 1-46 and 94 of U.S. Patent No. 8,278,351 and claim 1 of the U.S. Patent No. 8,383,675. The Commission's notice of investigation named as respondents Aker BioMarine AS of Oslo, Norway; Aker BioMarine Antarctic USA Inc. of Issaquah, Washington; Aker BioMarine Antarctic AS of Stamsund, Norway; Enzymotec Limited of Industrial Zone K'far Baruch, Israel; Enzymotec USA, Inc. of Morristown, New Jersey; Olympic Seafood AS of Fosnavåg, Norway; Olympic Biotec Ltd. of New Zealand; Avoca, Inc. of Merry Hill, North Carolina; Rimfrost USA, LLC of Merry Hill, North Carolina; and Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada.

On December 13, 2013, Complainants and respondents Aker Biomarine AS, Aker Biomarine Antarctic AS, and Aker Biomarine Antarctic USA, Inc. (collectively, "the Aker Respondents") filed an amended joint motion to terminate the investigation with respect to the Aker Respondents on the basis of a settlement agreement. The motion stated that no other respondent opposed. On December 16, 2013, the Commission investigative attorney filed a response in support of the motion. On December 17, 2013, the ALJ issued the subject ID (Order No. 40), granting Complainants' motion.

After considering the ID and the relevant portions of the record, the Commission has determined not to review the ID. The Commission agrees with the ALJ that the amended joint motion for termination complies with the requirements of Commission rule 210.21 and that the settlement does not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

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
Acting Secretary to the Commission

Issued: January 15, 2014