

In the Matter of

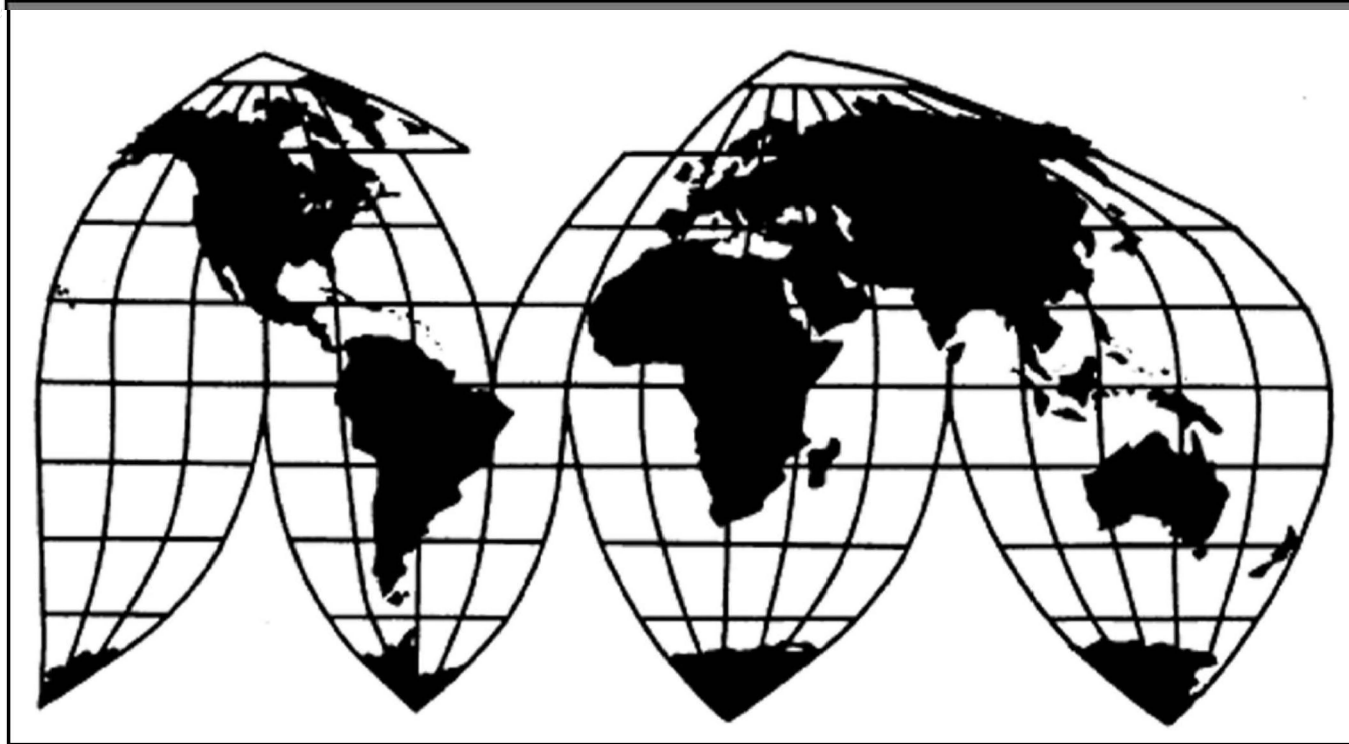
**CERTAIN ROLLED-EDGE RIGID PLASTIC
FOOD TRAYS**

Investigation No. 337-TA-1203

Publication 5308

March 2022

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Washington, DC 20436

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In the Matter of

CERTAIN ROLLED-EDGE RIGID PLASTIC FOOD TRAYS

Investigation No. 337-TA-1203



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

**Inv. No. 337-TA-1203
(Rescission)**

**NOTICE OF COMMISSION DETERMINATION TO PERMANENTLY
RESCIND A LIMITED EXCLUSION ORDER;
TERMINATION OF THE RESCISSION PROCEEDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to permanently rescind a limited exclusion order (“LEO”) issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. 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. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 June 23, 2020, the Commission instituted this investigation based on a complaint filed on behalf of Clearly Clean Products, LLC of South Windsor, Connecticut, and Converter Manufacturing, LLC of Orwigsburg, Pennsylvania (together, “Complainants”). 85 FR 37689-90 (Jun. 23, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rolled-edge rigid plastic food trays that infringe 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”). *Id.* at 37689-90. The complaint also alleged that a domestic industry exists. *Id.* at 37689. The Commission’s notice of investigation named as respondents Eco Food Pak (USA), Inc. of Chino, California (“Eco Food Pak”), and Ningbo Linhua Plastic Co., Ltd. of Xiwu, China (“Ningbo Linhua Plastic”). *Id.* at 37690. The Office of Unfair Import Investigations participated in this investigation. *Id.*

The investigation was terminated with respect to Eco Food Pak based on the entry of a consent order. Order No. 6 (Oct. 1, 2020), *unreviewed by* Comm’n Notice (Oct. 20, 2020).

On October 6, 2020, the Commission found Ningbo Linhua Plastic in default for failing to respond to the complaint, the notice of investigation, and an order to show cause why it should not be found in default. Order No. 7 (Oct. 6, 2020), *unreviewed by* Comm’n Notice (Oct. 20, 2020). On February 25, 2021, the Commission issued a LEO against Ningbo Linhua Plastic with respect to claim 9 of the ’281 patent and claims 1, 12, 20, and 21 of the ’680 patent, and terminated the investigation.

On December 4, 2024, Ningbo Linhua Plastic filed a petition to rescind the LEO because the subject patent claims were found unpatentable by the United States Patent and Trademark Office’s (“USPTO”) Patent Trial and Appeal Board (“PTAB”). Ningbo Linhua Plastic provided the PTAB’s final written decisions that found, *inter alia*, that claim 9 of the ’281 patent and claims 1, 12, 20, and 21 of the ’680 patent are unpatentable, as well as the U.S. Court of Appeals for the Federal Circuit’s affirmances of those final written decisions and denials of en banc review. Ningbo Linhua Plastic asserted that the unpatentability of the patent claims in the limited exclusion order was final and unappealable and constituted a changed circumstance that warranted rescission of the limited exclusion order pursuant to 35 U.S.C. 1337(k)(1) and 19 CFR 210.76.

On December 13, 2024, Complainants filed a response opposing the rescission of the LEO. Complainants argued that the patent claims are valid until the USPTO cancels the claims, which cannot occur until after the time for filing a petition for writ of certiorari expires or the completion of a U.S. Supreme Court appeal.

On January 3, 2025, the Commission instituted a rescission proceeding and temporarily suspended enforcement of the LEO pending the outcome of Complainants’ appeal. On May 27, 2025, the U.S. Supreme Court denied Complainants’ petition for writ of certiorari. On June 26, 2025, the USPTO issued an Inter Partes Review Certificate canceling, *inter alia*, claims 1, 12, 20, and 21 of the ’680 patent. On July 8, 2025, the USPTO issued an Inter Partes Review Certificate canceling, *inter alia*, claim 9 of the ’281 patent.

The Commission has determined to permanently rescind the LEO. Commission LEOs continue until the conditions that led to the LEO no longer exist or the respondent is no longer in violation of section 337. 19 U.S.C. 1337(k)(1) and (2). Here, the Commission issued the LEO based on the presumption that claim 9 of the ’281 patent and claims 1, 12, 20, and 21 of the ’680 patent were valid, but the USPTO’s cancellation of those claims demonstrates that the condition of validity no longer exists and that Ningbo Linhua Plastic no longer violates section 337. The Commission also finds that the requirements of Commission Rule 210.76(a) (19 CFR 210.76(a)) are satisfied. The rescission proceeding is hereby terminated.

The Commission vote for this determination took place on September 26, 2025.

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.

A handwritten signature in black ink, appearing to read 'LRB', enclosed within a large, flowing oval loop.

Lisa R. Barton
Secretary to the Commission

Issued: September 26, 2025

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

**Investigation No. 337-TA-1203
(Rescission)**

COMMISSION ORDER

On June 23, 2020, the Commission instituted this investigation based on a complaint, as supplemented, filed on behalf of Clearly Clean Products, LLC of South Windsor, Connecticut, and Converter Manufacturing, LLC of Orwigsburg, Pennsylvania. 85 FR 37689-90 (Jun. 23, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rolled-edge rigid plastic food trays that infringe 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”). *Id.* at 37689-90. The complaint also alleged that a domestic industry exists. *Id.* at 37689. The Commission’s notice of investigation names as respondents Eco Food Pak (USA), Inc. of Chino, California (“Eco Food Pak”), and Ningbo Linhua Plastic Co., Ltd. of Xiwu, China (“Ningbo Linhua Plastic”). *Id.* at 37690. The Office of Unfair Import Investigations participated in this investigation. *Id.*

The Commission terminated the investigation with respect to Eco Food Pak based on the entry of a consent order and issued a limited exclusion order (“LEO”) against Ningbo Linhua Plastic for failing to respond to an order to show cause why it should not be found in default for failing to respond to the complaint and notice of investigation.

On December 4, 2024, Ningbo Linhua Plastic filed a petition to rescind the LEO based on

the affirmance of U.S. Court of Appeals for the Federal Circuit of the United States Patent and Trademark Office's ("USPTO") Patent Trial and Appeal Board ("PTAB") determination that all of the LEO's subject patent claims are unpatentable. Ningbo Linhua Plastic provided the PTAB's final written decisions that, *inter alia*, claim 9 of the '281 patent and claims 1, 12, 20, and 21 of the '680 patent are unpatentable, as well as the Federal Circuit's affirmances of those final written decisions and denials of en banc review. Ningbo Linhua Plastic asserted that the unpatentability of the patent claims in the LEO was final and unappealable and constituted a changed circumstance that warranted rescission of the limited exclusion order pursuant to 35 U.S.C. § 1337(k)(1) and 19 C.F.R. § 210.76.

On December 13, 2024, Complainants filed a response opposing the rescission of the LEO. Complainants argued that the patent claims are valid until the USPTO cancels the claims, which cannot occur until after the time for filing a petition for writ of certiorari expires or the completion of a U.S. Supreme Court appeal.

On January 3, 2025, the Commission instituted a rescission proceeding and temporarily suspended enforcement of the LEO pending the outcome of Complainants' appeal. On May 27, 2025, the U.S. Supreme Court denied Complainants' petition for writ of certiorari. On June 26, 2025, the USPTO issued an Inter Partes Review Certificate cancelling, *inter alia*, claims 1, 12, 20, and 21 of the '680 patent. On July 8, 2025, the USPTO issued an Inter Partes Review Certificate cancelling, *inter alia*, claim 9 of the '281 patent.

Having reviewed the denial of writ of certiorari and cancellation of the LEO's subject patent claims, the Commission has determined to permanently rescind the LEO. The Commission finds that the conditions which led to the LEO no longer exist under 19 U.S.C. § 1337(k)(1) and (2)(B). The Commission also finds that the requirements of Commission Rule 210.76(a) (19 C.F.R. § 210.76(a)) are satisfied. Accordingly, upon consideration of the record

and the submissions in this matter, the Commission hereby ORDERS that:

- (1) Pursuant to 19 U.S.C. § 1337(k)(1) and (k)(2)(B) and 19 C.F.R. § 210.76(a)(1), the Commission has determined to permanently rescind the limited exclusion order issued in this investigation.
- (2) The Secretary shall serve a copy of this Order all parties of record and shall publish notice thereof in the Federal Register.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: September 26, 2025

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-1203

**NOTICE OF A COMMISSION DETERMINATION TO ISSUE A LIMITED
EXCLUSION ORDER AGAINST THE DEFAULTING 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 (“Commission”) has determined to issue a limited exclusion order against defaulted respondent Ningbo Linhua Plastic Co., Ltd. (“Ningbo”), the last remaining respondent. The Commission has also determined to impose a bond equal to one hundred percent (100%) of the entered value of the infringing products imported during the period of Presidential review. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. 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. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 23, 2020, based on a complaint filed by Clearly Clean Products, LLC of South Windsor, Connecticut and Converter Manufacturing, LLC of Orwigsburg, Pennsylvania (“Complainants”). 85 FR 37689-90 (June 23, 2020). The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), by reason of infringement of certain claims of U.S. Patent Nos. 9,908,281 and 10,562,680. The notice of investigation named the following respondents: Eco Food Pak (USA), Inc. of Chino, California (“Eco”) and Ningbo Linhua Plastic Co., Ltd. of Fenghua, China (“Ningbo”). The Commission’s Office of Unfair Import Investigations (“OUII”) also was named as a party.

Eco was terminated from the investigation on October 20, 2020, on the basis of a consent order and consent order stipulation. Comm’n Notice (Oct. 20, 2020).

Also on October 20, 2020, the Commission determined not to review an initial determination (“ID”) (Order No. 7) granting Complainants’ unopposed motion to find respondent Ningbo in default. Order No. 7 (Oct. 6, 2020), *unreviewed*, Comm’n Notice (Oct. 20, 2020). At that time, the Commission requested briefing on the issues of remedy, bonding, and the public interest with respect to Ningbo. 85 FR 67566-67 (Oct. 23, 2020).

On November 3, 2020, Complainants and OUII filed responses to the Commission’s request for briefing. Both parties also filed reply submissions on November 10, 2020. No other submissions were received.

Upon review of the record, and in the absence of any response from Ningbo or from other interested persons or government agencies, and having concluded that it would not be contrary to the public interest to do so, the Commission has determined to issue a limited exclusion order against Ningbo pursuant to Section 337(g)(1), 19 U.S.C. 1337(g)(1). However, the Commission declines to issue the requested cease and desist order against Ningbo because Complainants have not established that Ningbo maintains a commercially significant inventory in the U.S. or engages in significant commercial business operations in the United States, taking the allegations in the complaint as true, and as supported by the available circumstantial evidence. *See Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor*, Inv. 337-TA-997, Comm’n Op. at 16, 17-20 (Apr. 28, 2017). Exhibits 19 and 20 to the Complaint reflect shipments of “trays” to terminated Respondent Eco, which has entered into a consent order in this investigation, and thus do not suggest ongoing commercial operations necessitating a CDO. Even assuming the shipments to non-parties reflected in Exhibit 19 included infringing products, the latest arrival of said shipments occurred in May 2018, and likewise do not support the inference that Ningbo or its agents *maintain* any, much less commercially significant, inventory in the U.S. *See* Compl., Ex. 19 at 9; *cf. Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same*, Inv. No. 337-TA-959, Comm’n Op. at 32 (Feb. 13, 2017) (evidence of “short lead times between order placement and delivery” and low shipping costs supported the inference that “U.S. purchases of the foreign respondents’ infringing products were made from U.S. inventories”). The Commission has determined to set a bond in the amount of one hundred percent (100%) of the entered value of the covered products.

Commissioner Karpel and Commissioner Schmidtlein would issue both an LEO and a CDO directed to defaulting respondent Ningbo pursuant to Section 337(g)(1) because all requirements of this provision are met. Ningbo was named in the complaint and was served with the complaint and notice of investigation. *See* Order No. 7 (Oct. 6, 2020), *unreviewed*, Comm’n Notice (Oct. 20, 2020). The ALJ issued a show cause order ordering Ningbo to show cause why it should not be held in default for failing to respond to the complaint and notice of investigation. *See id.* Ningbo did not file a response to the show cause order. *Id.* These findings satisfy subsections 337(g)(1)(A)-(D). Complainants requested an LEO and a CDO limited to Ningbo thus satisfying subsection 337(g)(1)(E). Given that subsections 337(g)(1)(A)-(E) are satisfied and Complainants requested these remedies, the statute directs the Commission

to issue the requested LEO and CDO, subject to consideration of the public interest. Commissioner Karpel and Commissioner Schmittlein find that the public interest factors set forth in Section 337(g)(1) do not support a finding that these remedies would be contrary to the public interest.

The investigation is hereby terminated.

The Commission vote for this determination took place on February 25, 2021.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainants complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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.

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:**

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Avenue, NW, Suite 700
Washington, DC 20036
Email: mrb@blakeslee-law.com

- ☐ 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

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' with a stylized flourish at the end.

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:**

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Avenue, NW, Suite 700
Washington, DC 20036
Email: mrb@blakeslee-law.com

- ☐ 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
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- ☒ Other: Service to Be
Completed by Complainant

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-1203

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING NINGBO LINHUA PLASTIC CO., LTD. IN DEFAULT;
REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST,
AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 7) finding Ningbo Linhua Plastic Co., Ltd. (“Ningbo”), the last remaining respondent, in default. Accordingly, the Commission requests written submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Amanda Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. 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. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 23, 2020, based on a complaint filed by Clearly Clean Products, LLC of South Windsor, Connecticut and Converter Manufacturing, LLC of Orwigsburg, Pennsylvania (“Complainants”). 85 FR 37689-90 (June 23, 2020). The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), by reason of infringement of certain claims of U.S. Patent Nos. 9,908,281 and 10,562,680. The notice of investigation named the following respondents: Eco Food Pak (USA), Inc. of Chino, California and Ningbo Linhua Plastic Co., Ltd. of Fenghua, China (“Ningbo”). The Commission’s Office of Unfair Import Investigations (“OUII”) also was named as a party.

The complaint and notice of investigation were served on Ningbo on July 7, 2020. On August 20, 2020, Complainants filed a motion for an order to show cause why Ningbo should not be found in default for failing to respond to the complaint and notice of investigation. On September 8, 2020, the ALJ ordered Ningbo to show cause why it should not be found in default and Ningbo did not file a response.

On October 6, 2020, the ALJ issued the subject ID (Order No. 7) finding Ningbo in default. The ID notes that Ningbo is the last remaining respondent and the ID terminates the investigation. No party petitioned for review of the ID.

The Commission has determined not to review the ID. Ningbo is in default.

Ningbo is the sole remaining respondent in this investigation. Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. 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 *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest 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.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. 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.

In their initial submissions, Complainants are also requested to identify the remedy sought and Complainants and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainants are further requested to state the dates that the Asserted Patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on November 3, 2020. Reply submissions must be filed no later than the close of business on November 10, 2020. Opening submissions are limited to 15 pages. Reply submissions are limited to 10 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1203) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on October 20, 2020.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainants complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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.

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

Lisa R. Barton
Secretary to the Commission

Issued: October 20, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served via EDIS upon the Commission Investigative Attorney, **Claire Comfort, Esq.**, and the following parties as indicated, on **October 20, 2020**.



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:**

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Avenue, NW, Suite 700
Washington, DC 20036
Email: mrb@blakeslee-law.com

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

Respondents:

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 Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-1203

**ORDER NO. 7: INITIAL DETERMINATION FINDING RESPONDENT NINGBO
LINHUA PLASTIC CO., LTD. IN DEFAULT; AND TERMINATING
THE INVESTIGATION**

(October 6, 2020)

On August 20, 2020, Complainants Clearly Clean Products, LLC and Converter Manufacturing, LLC (collectively, “Complainants”) moved (1203-003) for an order directing Respondent Ningbo Linhua Plastic Co., Ltd. (“NLPC”) to show cause why it should not be found in default for failing to respond to the Complaint and Notice of Investigation (“NOI”). The Commission Investigative Staff supported Complainants’ motion.

Pursuant to Rule 210.16 of the Commission’s Rules of Practice and Procedure, the undersigned issued Order No. 5 whereby NLPC was ordered to show why it should not be found in default for failure to respond to the Complaint and NOI by the close of business on September 30, 2020. *See* 19 C.F.R. § 210.16; Order No. 5 (Sept. 8, 2020). NLPC did not file a response.

Commission Rule 210.16 provides in pertinent part, as follows:

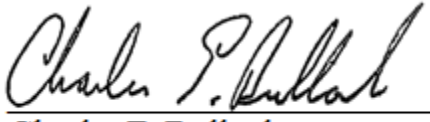
A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

19 C.F.R. § 210.16(a)(1). The Commission’s Rules further provide that “[a] party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation.” 19 C.F.R. § 210.16(b)(4).

Accordingly, it is the initial determination of the undersigned that Respondent NLPC be found in default. NLPC has therefore waived its right to appear, be served with documents, and to contest the allegations at issue in this Investigation. Because NLPC is the last remaining respondent, this initial determination terminates the Investigation.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues contained herein.

SO ORDERED.



Charles E. Bullock
Chief Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served via EDIS upon the Commission Investigative Attorney, **Claire Comfort, Esq.**, and the following parties as indicated, on **October 6, 2020**.



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:**

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Avenue, NW, Suite 850
Washington, DC 20036
Email: mrb@blakeslee-law.com

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

Respondents:

Eco Food Pak (USA), Inc.
8719 Enterprise Way
Chino, CA 91710

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

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 Complainants