



**[Investigation No. 337-TA-1166]**

**Certain Foodservice Equipment and Components Thereof**

**Commission Determination to Review an Initial Determination Granting Summary Determination of No Substantial Injury to a Domestic Industry, and on Review to Reverse the Initial Determination and Remand the Investigation to the Administrative Law Judge**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 52) granting summary determination of no substantial injury to a domestic industry in the above-captioned investigation. On review, the Commission has determined to reverse the ID's grant of summary determination and remand the investigation to the ALJ for further proceedings. The Commission has also determined to deny Complainants' motion for leave to file a reply brief.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2392. 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](mailto: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:** The Commission instituted this investigation on July 3, 2019, based on a complaint filed on behalf of Illinois Tool Works, Inc. of Glenview, Illinois; Vesta Global Limited of Hong Kong; Vesta (Guangzhou) Catering Equipment Co., Ltd. of China; and Admiral Craft Equipment Corp. of Westbury, New York (collectively, "Complainants"). 84

FR 31911 (Jul. 3, 2019). The complaint, as supplemented, alleges violations of section 337(a)(1)(A) of the Tariff Act of 1930, as amended, 19 U.S.C. 1337(a)(1)(A), based upon the importation of articles into the United States, or in the sale of such articles by the owner, importer, or consignee of certain foodservice equipment and components thereof by reason of misappropriation of trade secrets and unfair competition through tortious interference with contractual relationships, the threat or effect of which is to destroy or substantially injure a domestic industry. *Id.* at 31911-12. The plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “commercial kitchen equipment and components thereof for use in restaurants, bars, cafes, cafeterias, or the like.” *Id.* at 31912. The notice of investigation named Guangzhou Rebenet Catering Equipment Manufacturing Co., Ltd.; Zhou Hao; Aceplus International Limited (aka Ace Plus International Ltd.); Guangzhou Liangsheng Trading Co., Ltd.; and Zeng Zhaoliang (collectively, “Respondents”), all of China as respondents. *Id.* at 31912. The Office of Unfair Import Investigations (“OUII”) is also named as a party. *Id.*

On May 21, 2020, OUII filed a motion for summary determination of no substantial injury to a domestic industry under section 337(a)(1)(A), 19 U.S.C. 1337(a)(1)(A). Complainants opposed the motion, and Respondents supported the motion. OUII also filed a reply brief in support of its motion.

On July 9, 2020, the ALJ issued the subject ID (Order No. 52) granting OUII’s motion for summary determination of no substantial injury to a domestic industry under section 337(a)(1)(A). Presuming the existence of a domestic industry as alleged by Complainants, the ID found that “Complainants have not demonstrated injury” to “the specific activities and investments that give rise to [the alleged] domestic industry.” *Id.* at 16, 18. The ID found that Complainants identified “generalized competitive harm ‘to the industry as a whole,’ such as lost sales and profits, rather than pointing specifically to injury or threatened injury to the alleged domestic activities.” *Id.* at 16. The ID reasoned that “generalized lost profits and lost sales, *etc.*,

cannot suffice to show substantial harm because even a mere importer will suffer such harm if a competitor imports and sells the same products cheaper.” *Id.* at 17.

On July 20, 2020, Complainants petitioned for review of the ID. Thereafter, Respondents and OUII opposed the petition. On August 4, 2020, Complainants filed a motion for leave to file a reply to Respondents’ and OUII’s responses to its petition. Respondents and OUII opposed Complainants’ motion.

The Commission has determined to review the ID in its entirety and to deny Complainants’ motion for leave to file a reply brief. On review, the Commission has determined to reverse the ID’s grant of summary determination finding that Complainants’ evidentiary showing is insufficient to establish substantial injury to Complainants’ alleged domestic industry, and remand the investigation to the ALJ for further proceedings consistent with the Commission’s order and concurrent opinion.

The Commission vote for this determination took place on December 14, 2020.

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.

Issued: December 14, 2020.

Lisa Barton,  
Secretary to the Commission.

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