

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN AUTOMATED MECHANICAL
TRANSMISSION SYSTEMS FOR MEDIUM-
DUTY AND HEAVY-DUTY TRUCKS AND
COMPONENTS THEREOF**

)
)
) **Inv. No. 337-TA-503, Consolidated**
) **Enforcement and Advisory**
) **Opinion Proceedings**
)
)

**NOTICE OF INSTITUTION OF FORMAL ENFORCEMENT AND ADVISORY
OPINION PROCEEDINGS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to certain remedial orders issued at the conclusion of the above-captioned investigation. The Commission has also instituted advisory opinion proceedings in the same investigation.

FOR FURTHER INFORMATION CONTACT: Rodney Maze, Esq., 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: This patent-based section 337 investigation was instituted by the Commission on January 7, 2004, based on a complaint filed by Eaton Corporation ("Eaton") of Cleveland, Ohio. 69 Fed. Reg. 937 (January 7, 2004). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automated mechanical transmission ("AMT") systems for medium-duty

and heavy-duty trucks, and components thereof, by reason of infringement of claim 15 of U.S. Patent No. 4,899,279 (“the ‘279 patent”); claims 1-20 of U.S. Patent No. 5,335,566 (“the ‘566 patent”); claims 2-4 and 6-16 of U.S. Patent No. 5,272,939 (“the ‘939 patent”); claims 1-13 of U.S. Patent No. 5,624,350 (“the ‘350 patent”); claims 1, 3, 4, 6-9, 11, 13, 14, 16 and 17 of U.S. Patent No. 6,149,545 (“the ‘545 patent”); and claims 1-16 of U.S. Patent No. 6,066,071 (“the ‘071 patent”). The complaint and notice of investigation named three respondents ZF Meritor, LLC of Maxton, North Carolina, ZF Friedrichshafen AG of Freidrichshafen, Germany, and ArvinMeritor, Inc. (“ArvinMeritor”) of Troy, Michigan.

On January 7, 2005, the ALJ issued his final ID on violation and his recommended determination on remedy and bonding. The ALJ found a violation of section 337 by reason of infringement of claim 15 of the ‘279 patent by respondents. He found no violation of section 337 regarding the ‘566 and the ‘545 patents. Petitions for review were filed by Eaton, the respondents, and the Commission investigative attorney (“IA”) on January 21, 2005. All parties filed responses to the petitions on January 28, 2005.

On February 24, 2005, the Commission issued a notice indicating that it had determined not to review the ALJ’s final ID on violation, thereby finding a violation of section 337. The Commission also called for briefing on the issues of remedy, the public interest and bonding. All parties filed timely written submissions regarding those issues. On April 7, 2005, the Commission issued a limited exclusion order and a cease and desist order covering AMT systems for medium-duty and heavy-duty trucks, and components thereof. *70 Fed. Reg.* 19094 (April 13, 2005).

On April 21, 2005, the respondents filed a request for issuance of an advisory opinion. The IA and the complainant each filed a response on May 2, 2005, and May 4, 2005, respectively. On May 11, 2005, the complainant filed a complaint for enforcement proceedings of the Commission’s remedial orders. On May 24, 2005, complainant amended its enforcement complaint.

The Commission, having examined the amended complaint for a formal enforcement proceeding filed by the complainant, and having found that the amended complaint complies with the requirements for institution of a formal enforcement proceeding, determined to institute formal enforcement proceedings to determine whether the two respondents listed below are in violation of the Commission’s limited exclusion order and/or cease and desist order issued in the investigation, and what if any enforcement measures are appropriate.

The following were named as parties to the formal enforcement proceeding: (1) complainant Eaton Corporation (2) respondent ZF Friedrichshafen AG, (3) respondent ArvinMeritor, Inc.; and (4) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

The Commission, having examined the request for an advisory opinion filed by the respondents, and having found that the request complies with the requirements for institution of

advisory opinion proceedings, determined to institute advisory opinion proceedings to determine whether the importation of the respondents' redesigned FreedomLine transmission system would violate the limited exclusion order issued in the above-captioned investigation. The following were named as parties to the advisory opinion proceedings: (1) complainant Eaton Corporation (2) respondent ZF Friedrichshafen AG, (3) respondent ArvinMeritor, Inc.; and (4) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

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 210.75 and 210.79 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.75 and 210.79).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: June 6, 2005