

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN HIGH-POTENCY SWEETENERS,
PROCESSES FOR MAKING SAME, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-1264

CONSENT ORDER

The United States International Trade Commission (“Commission”) instituted the above-captioned investigation (“Investigation”) based on the allegations contained in the Complaint filed by Complainants Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. (collectively, “Complainants”) on April 8, 2021. *See* 86 Fed. Reg. 26544 (May 14, 2021). Complainants filed an Amended Complaint on August 26, 2021. The Complaint and Amended Complaint allege a violation of Section 337 of the Tariff Act of 1930, as amended, based upon the importation into the United States, sale for importation, and/or sale within the United States after importation of certain high-potency sweeteners, processes for making same, and products containing same that infringe one or more claims of U.S. Patent Nos. 10,023,546 (“the ’546 patent”), 10,208,004 (“the ’004 patent”), 10,590,098 (“the ’098 patent”), 10,233,163 (“the ’163 patent”) and 10,590,095 (the “’095 patent”) (collectively, the “Asserted Patents”). *See id.*; 86 Fed. Reg. 47658 (Aug. 26, 2021). The Amended Complaint names certain respondents, including Qingdao Samin Chemical Co. *See* 86 Fed. Reg. 47658 (Aug. 26, 2021). This Investigation was instituted on all grounds and as to all proposed Respondents identified in the Complaint on May 14, 2021. *See* 86 Fed. Reg. 26544 (May 14, 2021). On August 6, 2021, the ALJ issued an initial determination permitting Complainants to file the Amended Complaint, and

on August 23, 2021, the Commission declined to review that Initial Determination and amended the Notice of Investigation to add Qingdao Samin Chemical Co. and other Respondents to the investigation. *See id.*; 86 Fed. Reg. 47658 (Aug. 26, 2021).

NOW, THEREFORE, the Commission issues the following Consent Order:

1. Pursuant to 19 C.F.R. § 210.21(c)(4)(i), the Complainants in this Investigation are Celanese International Corporation (“CIC”), Celanese (Malta) Company 2 Limited (“Celanese Malta”), and Celanese Sales U.S. Ltd. (“Celanese US”) (collectively, “Celanese”). CIC is a United States company organized and existing under the laws of Delaware, having its principal place of business at 222 West Las Colinas Boulevard, Suite 900N, Irving, Texas 75039. Celanese Malta is a limited company organized under the laws of Malta, having its registered office at 78 Mill street, Zone 5, Central Business District, Qormi, CBD 5090, Malta and registered with company registration number C97343. Celanese US is a limited partnership, organized and existing under the laws of Texas, having its principal place of business at 222 West Las Colinas Boulevard, Suite 900N, Irving, Texas 75039. CIC, Celanese Malta and Celanese US are wholly owned subsidiaries of Celanese Corporation.

2. Pursuant to 19 C.F.R. § 210.21(c)(4)(i), the Respondent covered by this Consent Order is Qingdao Samin Chemical Co. (“Saminchem”). Saminchem is a Chinese corporation with its headquarters at B-3A20, Heda Plaza, 1799 Tailiu Road, Qingdao, China and a U.S. headquarters at 3225 Grapevine Street, Mira Loma, CA 91752.

3. Pursuant to 19 C.F.R. § 210.21(c)(4)(i), the subject articles in this Investigation are certain high-potency sweeteners, processes for making same, and products containing same, specifically Jinhe Ace-K sweetener products and manufacture processes thereof, that have been imported into the United States, sold for importation, and/or sold within the United States after

importation (collectively, the “Subject Articles”).

4. Pursuant to 19 C.F.R. § 210.21(c)(4)(i), the Amended Complaint accuses Saminchem of importing into the United States, selling for importation, and/or selling within the United States after importation Subject Articles in violation of Section 337 of the Tariff Act of 1930, as amended, based upon the alleged infringement of Claims 1, 11-13, 15-18, 22 and 27 of the '546 patent, Claims 1-5, 7-9, 11-13, 21-33 and 35-42 of the '004 patent, Claims 1-5, 7-9, 11-12, 20-32, 34 and 36-38 of the '098 patent, Claims 1, 4-5, 7-11, 13, 15-16, 18-19 and 22-37 of the '163 patent, and Claims 1, 4-5, 7-11, 13, 15, 18-19 and 22-39 of the '095 patent. On September 9, 2021, Complainants filed a motion to terminate the investigation as to certain asserted claims, such that the remaining claims asserted in this investigation are Claims 1, 11-13, 15-18 and 27 of the '546 patent, Claims 1-5, 7-9, 11-13, 21-28, 33, and 35-36 of the '004 patent, Claims 1, 4, 7-11, 18-19, 22-25, and 27-37 of the '163 patent, and claims 1, 4, 7-11, 18-19, 22-25, and 27-37 of the '095 patent. Accordingly, Complainants accuse Saminchem of importing into the United States, selling for importation, and/or selling within the United States after importation Subject Articles in violation of Section 337 of the Tariff Act of 1930, as amended, based on upon the alleged infringement of Claims 1, 11-13, 15-18 and 27 of the '546 patent, Claims 1-5, 7-9, 11-13, 21-28, 33, and 35-36 of the '004 patent, Claims 1, 4, 7-11, 18-19, 22-25, and 27-37 of the '163 patent, and claims 1, 4, 7-11, 18-19, 22-25, and 27-37 of the '095 patent (collectively, “the Asserted Patent Claims”).

5. Pursuant to 19 C.F.R. § 210.21(c)(4)(ii), Saminchem has executed a Consent Order Stipulation.

6. Pursuant to 19 C.F.R. § 210.21(c)(4)(iii), Saminchem shall not sell for importation, import, or sell after importation the Subject Articles, directly or indirectly, and shall not aid, abet,

encourage, participate in, or induce the sale for importation, the importation, or the sale after importation except under consent or license from Celanese.

7. Pursuant to 19 C.F.R. § 210.21(c)(4)(iv), Saminchem shall export or destroy any existing inventories of the Subject Articles in the United States within 30 days of its execution of the Consent Order Stipulation.

8. Pursuant to 19 C.F.R. § 210.21(c)(4)(v), Saminchem shall cease and desist from importing and/or distributing the Subject Articles.

9. Pursuant to 19 C.F.R. § 210.21(c)(4)(vi), Saminchem shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.

10. Pursuant to 19 C.F.R. § 210.21(c)(4)(vii), Saminchem shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of 19 C.F.R. Part 210.

11. Pursuant to 19 C.F.R. § 210.21(c)(4)(viii), Saminchem and its officers, directors, employees, agents, and any entity or individual acting on its behalf and with its authority shall not seek to challenge the validity or enforceability of any of the Asserted Patent Claims in any administrative or judicial proceeding to enforce the Consent Order.

12. Pursuant to 19 C.F.R. § 210.21(c)(4)(ix), when any of the Asserted Patents expire, the Consent Order will become null and void as to such Asserted Patent(s).

13. Pursuant to 19 C.F.R. § 210.21(c)(4)(x), if any of the Asserted Patent Claims are held invalid or unenforceable by a court or agency of competent jurisdiction, or if any of the Subject Articles have been found or adjudicated not to infringe any of the Asserted Patent Claims in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to such invalid or unenforceable Asserted Patent Claim(s) or such adjudicated Subject Article(s).

14. Pursuant to 19 C.F.R. § 210.21(c)(4)(xi), Saminchem admits that the Commission has *in personam* jurisdiction over it for the purposes of the Stipulation and this Consent Order, *in rem* jurisdiction over the Subject Articles, and subject matter jurisdiction over this Investigation.

15. Pursuant to 19 C.F.R. § 210.21(c)(4)(xii), this Investigation is hereby terminated with respect to Saminchem; provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I of 19 C.F.R. Part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: November 4, 2021