

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

In the Matter of

**CERTAIN PLASTIC GROCERY
AND RETAIL BAGS**

Inv. No. 337-TA-492

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain plastic grocery and retail bags that infringe one or more of claims 1-8 and 15-19 of U.S. Patent No. 5,188,235 (“the ‘235 patent”).

Having reviewed the record in this investigation, including the recommended determination of the presiding administrative law judge and the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a general exclusion order issued under section 337(d)(2) prohibiting the unlicensed importation of infringing plastic grocery and retail bags.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the general exclusion order and that the bond during the Presidential review period shall be in the amount of 80 percent of the entered value of the articles in question.

Accordingly, the Commission hereby ORDERS THAT:

1. Plastic grocery and retail bags covered by one or more of claims 1-8 and 15-19 of

the '235 patent are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption for the remaining term of the '235 patent, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid grocery and retail bags are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption under bond in the amount of 80 percent of the entered value of such articles, from the day after this Order is received by the President, pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), until such time as the President notifies the Commission that he approves or disapproves this action, but no later than sixty (60) days after the date of receipt of this Order by the President.
3. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to plastic grocery and retail bags imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization and consent of the Government.
4. The Commission may modify this Order in accordance with the procedure described in section 210.76 of the Commission's rules of Practice and Procedure, 19 C.F.R. § 210.76.
5. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human

Services, the Department of Justice, the Federal Trade Commission, and the Bureau of Customs and Border Protection.

6. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 10, 2004