

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:** Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on September 7, 2012. Comments should address whether issuance of a general exclusion order (or alternatively a limited exclusion order) in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended orders are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and
- (v) Explain how the general exclusion order (or alternatively a limited exclusion

order) would impact consumers in the United States.

Written submissions must be filed no later than by close of business on October 17, 2012.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-804") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.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 the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: September 17, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012-23216 Filed 9-19-12; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-791/826]

### Certain Electric Fireplaces, Components Thereof, Manuals for Same, Certain Processes for Manufacturing or Relating to Same and Certain Products Containing Same; [Corrected] Determination To Review In Part ALJ Initial Determination; Request for Written Submissions

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the final initial determination ("ID") (Order No. 20) of the presiding administrative law judge ("ALJ") finding the remaining respondents, Shenzhen Reliap Industrial Co. ("Reliap") and Yue Qiu Sheng ("Yue"), both of Shenzhen, China, in default and in violation of section 337. The Commission has also determined to review the ALJ's Order No. 19 denying respondents' motion for summary determination that complainants' breach of contract allegation is outside the scope of the investigation. The Commission is also requesting briefing on the issue on review and on remedy, the public interest, and bonding.

#### FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-2310. 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 SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <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:** The Commission instituted Investigation No. 337-TA-791 ("the 791 investigation") on July 20, 2011, based on a complaint filed by Twin-Star International, Inc. of Delray Beach, Florida and TS

Investment Holding Corp. of Miami, Florida (collectively, "Twin-Star"). 76 FR 43345-46 (July 20, 2011). The Commission instituted Investigation No. 337-TA-826 on January 19, 2012 based on another complaint filed by Twin-Star, and consolidated it with the 791 investigation. 77 FR 2757-58 (Jan. 19, 2012). The complaints allege a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electric fireplaces, components thereof, manuals for same, certain processes for manufacturing or relating to same and certain products containing same by reason of infringement of U.S. Copyright Nos. TX0007350474; TX0007350476; VA0001772660; and VA0001772661; and by reason of misappropriation of trade secrets, breach of contract, and tortious inference with contract, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The Commission's notice of investigation named Reliap, Yue, and Whalen Furniture Manufacturing, Inc. ("Whalen") of San Diego, California as respondents. On July 3, 2012, the Commission issued notice of its determination not to review the ALJ's ID terminating the investigation as to Whalen based on a consent order and settlement agreement.

On June 20, 2012, Twin-Star moved for an ID finding the remaining respondents, Reliap and Yue, in default and in violation of section 337 pursuant to Commission Rule 210.17, 19 CFR 210.17. The Commission investigative attorney filed a response in support of the motion.

On July 13, 2012, the ALJ granted Twin-Star's motion and issued the final ID in this investigation finding the remaining respondents in default and in violation of section 337 pursuant to 19 CFR 210.17 because they did not participate in the investigation following withdrawal of their counsel on March 12, 2012. The ID also contained the ALJ's recommended determination on remedy. Specifically, the ALJ recommended issuance of a limited exclusion order with respect to the defaulting respondents.

Also on July 13, 2012, the ALJ issued Order No. 19, denying a motion filed by Yue on December 11, 2011, for summary determination that Twin-Star's breach of contract claim is outside the scope of the investigation. On July 20, 2012, the Commission investigative attorney petitioned for review of Order No. 19 and the ALJ's final ID. Twin-Star filed

a response in opposition on July 30, 2012.

Having examined the record of this investigation, including the ALJ's ID, Order No. 19, and the parties' briefing, the Commission has determined to review Order No. 19 and to review the final ID in part to the extent that it finds a violation of section 337 based on the breach of contract allegations. The Commission has determined not to review the remainder of the ID.

On review, the parties, interested government agencies, and any other interested persons are requested to submit briefing on the issue under review and to address in particular the following:

(1) Please explain whether a breach of contract claim can give rise to a violation of 19 U.S.C. 1337(a)(1)(A), and discuss any relevant statutory language, legislative history, and legal precedent.

In connection with the final disposition of this investigation, the Commission may issue an order that results in the exclusion of the subject articles from entry into the United States. See 19 U.S.C. 1337(d). 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 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The 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.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or

disapprove the Commission's action. 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:* The parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant is requested to state the issue under review and the dates that the copyrights at issue expire and the HTSUS numbers under which the accused products are imported. The written submissions must be filed no later than close of business on October 12, 2012. Reply submissions must be filed no later than the close of business on November 9, 2012. No further submissions on 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 and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 CFR 210.4(f). Submissions should refer to the investigation number ("Inv. No. 337-TA-791/826") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 210.17, 42-43, 45-46 and 50 of

the Commission's Rules of Practice and Procedure (19 CFR 210.17, 210.42–43, 210.45–46, and 210.50).

By order of the Commission.

Issued: September 14, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–23175 Filed 9–19–12; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *Nu-West Mining, Inc. and Nu-West Industries, Inc. v. United States*, Civil Action No. 90–431–E–BLW, was lodged with the United States District Court for the District of Idaho on September 7, 2012.

The proposed Consent Decree concerns a complaint filed by Nu-West Mining, Inc. and Nu-West Industries, Inc. (collectively “Nu-West”) against the United States under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9607 and 9613, seeking to hold the United States liable for past and future response costs relating to the clean-up of contamination at four phosphate mines in Southeast Idaho. The United States counterclaimed against Nu-West under Sections 107 and 113 of CERCLA, 42 U.S.C. 9607 and 9613, seeking to hold Nu-West liable for these response costs. The proposed Consent Decree resolves all asserted claims and counterclaims by allocating response costs between Nu-West and the United States.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to the United States Department of Justice, P.O. Box 7611, Washington DC 20044–7611. Please refer to *Nu-West Mining, Inc. and Nu-West Industries, Inc. v. United States*, DJ # 90–11–3–1776/5.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Idaho, 801 E. Sherman Street, Room 119, Pocatello, ID 83201. In addition, the proposed Consent Decree may be

examined electronically at [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, or by emailing or faxing a request to “Consent Decree Copy” ([eescdcopy.enrd@usdoj.gov](mailto:eescdcopy.enrd@usdoj.gov)), fax number (202) 514–0097, phone confirmation number (202) 514–5271. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$6.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Cherie L. Rogers,**

*Assistant Section Chief, Environmental Defense Section, Environment & Natural Resources Division.*

[FR Doc. 2012–23168 Filed 9–19–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Amended Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

This Notice amends and replaces the original notice published on September 6, 2012, 77 Fed. Reg. 54926–54927. Notice is hereby given that on August 28, 2012, a proposed Consent Decree in *United States v. Cornell-Dubilier Electronics, Inc.*, Civil Action No. 12–cv–05407 JLL–MAH, was lodged with the United States District Court for the District of New Jersey.

The proposed Consent Decree resolves the United States' and the State of New Jersey's cost recovery and natural resource damages claims against Cornell-Dubilier Electronics, Inc. (“CDE”) under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9601 *et seq.*, relating to the Cornell-Dubilier Electronics, Inc. Superfund Site (“Site”) located in South Plainfield, New Jersey. EPA has performed cleanup work at the Site using funds from the Superfund and will continue to do so. The Consent Decree includes covenants not to sue under Sections 106 and 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. 6973.

In the proposed Consent Decree, CDE, an ability to pay party, and the United States and New Jersey agree to a stipulated judgment amount, 80 percent of the sum of the response cost and

natural resource damage claims of the United States and New Jersey, or \$367,453,449. CDE has agreed to pay, on a sliding scale, between 75 to 100 percent of portions of its insurance recoveries to the United States and New Jersey. In addition to payment of the potential recovery of insurance proceeds, CDE will make payments over three years totaling \$1.11 million to the United States and New Jersey. All of these CDE payments will be divided between EPA, New Jersey, and the federal and state natural resource trustees. CDE will also place, as necessary, up to a total of \$3.25 million into an escrow account for use in its state court insurance litigation relating to coverage for the Site. Finally, the Decree also resolves potential contribution claims and the State's cost claims against the Department of Defense and the General Services Administration. The federal agencies will pay \$16,282,685 toward the United States' and the State's total past and estimated future response costs and natural resource damages.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to the matter as *United States v. Cornell-Dubilier Electronics, Inc.*, D.J. Ref. Number 90–11–2–08223/2. A person may request an opportunity for a public hearing in the affected area in accordance with Section 7003 of RCRA, 42 U.S.C. 6973, regarding the Decree's Section 7003 covenant not (1) to sue or (2) to order CDE to take actions as may be necessary to address an imminent and substantial endangerment or to protect public health and the environment.

During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to “Consent Decree Copy” ([EESCDCopy.ENRD@usdoj.gov](mailto:EESCDCopy.ENRD@usdoj.gov)), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting by mail from the Consent Decree Library a copy of the proposed Consent Decree