

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN STAINLESS STEEL
PRODUCTS, CERTAIN PROCESSES
FOR MANUFACTURING OR
RELATING TO SAME, AND CERTAIN
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-933

**NOTICE OF THE COMMISSION'S FINAL DETERMINATION FINDING A
VIOLATION OF SECTION 337; ISSUANCE OF A LIMITED EXCLUSION ORDER
AND CEASE AND DESIST ORDER; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in this investigation and has issued a limited exclusion order prohibiting importation of certain stainless steel products manufactured by or on behalf of respondent Viraj Profiles Limited (“Viraj Profiles”) using the complainant’s misappropriated trade secrets. The Commission has also issued a cease and desist order directed to Viraj Profiles. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3438. 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: The Commission instituted this investigation on October 10, 2014, based on a complaint filed by Valbruna Slater Stainless, Inc. of Fort Wayne, Indiana; Valbruna Stainless Inc., of Fort Wayne, Indiana; and Acciaierie Valbruna S.p.A. of Italy (collectively, “Valbruna”). 79 *Fed. Reg.* 61339 (Oct. 10, 2014). The complaint alleges violations 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 stainless steel products, certain processes for manufacturing or relating to same, and certain products containing same by reason of the misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation names as respondents (1) Viraj Profiles of Mumbai, India; Viraj Holdings P. Ltd. of Mumbai, India; Viraj - U.S.A., Inc. of Garden City, New York; (2) Flanschenwerk Bebitz GmbH of Könnern, Germany; Bebitz Flanges Works Pvt. Ltd. of Maharashtra, India; Bebitz U.S.A. of Garden City, New York; and Ta Chen Stainless Pipe Co., Ltd. of Tainan, Taiwan and Ta Chen International, Inc. of Long Beach, California. *Id.* The Office of Unfair Import Investigations also was named as a party to the investigation. *Id.*

On December 8, 2015, the administrative law judge (“ALJ”) issued an initial determination (“ID”) (Order No. 17) granting in part Valbruna’s motion for default and other relief. The ALJ found that Viraj Profiles acted in bad faith in spoliating evidence and that a sanction of default against Viraj Profiles was warranted. On February 8, 2016, the Commission determined to review Order No. 17, and, in that notice of review, determined to affirm the default finding against Viraj Profiles, noting that supplemental reasoning would be provided in a forthcoming opinion. 81 *Fed. Reg.* 7584 (Feb. 12, 2016). The Commission also requested briefing from the parties on certain issues on review, and requested briefing from the parties, interested government agencies, and any other interested persons on the issues of remedy, the public interest, and bonding. *Id.*

On February 18, 2016, the parties filed initial written submissions addressing the Commission’s questions and remedy, the public interest, and bonding. Also, on February 18, 2016, several non-parties filed responses to the Commission’s February 8, 2016 notice, including Forging Industry Association, Central Wire Inc., Sumiden Wire Products Corporation, Tree Island Steel, Tri Star Metals, LLC, Carpenter Technology Corporation, Crucible Industries LLC, Electralloy (G.O. Carlson Inc., Co.), North American Stainless, Outokumpu Stainless USA, LLC, and Universal Stainless & Alloy Products, Inc. On February 24, 2016, U.S. Representatives Tim Murphy and Peter J. Visclosky, the respective Chairman and Vice Chairman of the Congressional Steel Caucus, also filed a response to the Commission’s February 8, 2016 notice. On February 25, 2016, the parties filed reply submissions. Also, on February 25, 2016, several non-parties filed reply submissions, including American Wire Producers Association, Alloy Screen Works, Inc., Cincinnati Metals Inc., Kerkau Mfg., Carpenter Technology Corporation, Crucible Industries LLC, Electralloy (G.O. Carlson Inc., Co.), North American Stainless, Outokumpu Stainless USA, LLC, and Universal Stainless & Alloy Products, Inc. On February 25, 2016, U.S. Senator Joe Donnelly of Indiana also filed a response to the Commission’s February 8, 2016 notice.

On March 3, 2016, the ALJ issued an ID (Order No. 19) granting Valbruna’s motion for partial termination of the investigation based on withdrawal of the complaint against all respondents except Viraj Profiles. On April 4, 2016, the Commission determined not to review Order No. 19. Notice (Apr. 4, 2016).

Having examined the record of this investigation, including the various IDs and the parties’ submissions, the Commission has determined to vacate the portions of Order No. 17 with respect to (1) disgorgement and (2) denial of Valbruna’s request for leave to assert additional operating

practices.

The Commission has determined the appropriate remedy is a limited exclusion order prohibiting, for 16.7 years from the date of the order, the entry of stainless steel products manufactured by or on behalf of Viraj Profiles using any of the misappropriated trade secrets identified in Valbruna's complaint (*see* Compl. ¶¶ 27-33, 51 and accompanying exhibits). The Commission has also determined to issue a cease and desist order prohibiting Viraj Profiles from, *inter alia*, importing or selling the subject products. The Commission has determined that the public interest factors enumerated in section 337(d) and (f), 19 U.S.C. §§ 1337(d), (f), do not preclude the issuance of the limited exclusion order or the cease and desist order. The Commission has determined to apply a bond in the amount of 13.4 percent of the entered value of excluded products imported or sold during the period of Presidential review (19 U.S.C. § 1337(j)).

The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: May 25, 2016