



INTERNATIONAL TRADE COMMISSION

Certain Stainless Steel Products, Certain Processes for Manufacturing or Relating to Same, and Certain Products Containing Same

Investigation No. 337-TA-933 (Advisory Opinion)

Notice of the Issuance of an Advisory Opinion

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue an advisory opinion in the above-captioned investigation. The Commission concurrently issues the advisory opinion and terminates the advisory opinion proceeding.

FOR FURTHER INFORMATION CONTACT: Amanda P. Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2737. 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 (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 alleged 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 named as respondents Viraj Profiles Limited of Mumbai, India (“Viraj”); Viraj Holdings P. Ltd. of Mumbai, India; Viraj - U.S.A., Inc. of Garden City, New York; 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”) (Judge Essex) issued an initial determination (“ID”) (Order No. 17) finding Viraj in default for spoliation of evidence and ordering the disgorgement of complainants’ operating practices in Viraj’s possession. On February 8, 2016, the Commission determined to review Order No. 17, and, in its notice of review, determined to affirm the default finding against Viraj. 81 *Fed. Reg.* 7584 (Feb. 12, 2016). The Commission also requested briefing from the parties on certain other 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 April 4, 2016, the Commission determined not to review 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. Notice (Apr. 4, 2016).

On May 25, 2016, the Commission modified the reasoning underlying the default finding in Order No. 17 and vacated the ID's disgorgement order. The Commission terminated the investigation with a finding of violation of section 337 as to Viraj. The Commission also issued a limited exclusion order and a cease and desist order.

On June 22, 2016, Viraj filed a request for an advisory opinion pursuant to Commission Rule 210.79. On July 6, 2016, Valbruna opposed the request. On July 13, 2016, Viraj filed a motion for leave to file a reply to Valbruna's opposition. On July 21, 2016, Valbruna filed an opposition to Viraj's motion. The Commission grants Viraj's motion.

The Commission has determined that Viraj's request complies with the requirements for issuance of an advisory opinion under Commission Rule 210.79. Accordingly, the Commission has determined to issue an advisory opinion.

Having considered the parties' filings, the Commission has determined that Viraj has not provided sufficient information to determine whether any stainless steel products sought to be imported by Viraj would be covered by the limited exclusion order. The Commission's opinion on violation requires that Viraj establish "that *specific products* that it seeks to import are not manufactured using any of the trade secrets identified in Valbruna's complaint." Comm'n Op. at 31. Here, Viraj has not provided sufficient information to establish that specific stainless steel products would be manufactured without the benefit of Valbruna's trade secrets. The reasons for the Commission's determinations are set forth in the accompanying Advisory Opinion.

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 CFR Part 210).

By order of the Commission.

Katherine Hiner
Acting Supervisory Attorney

Issued: September 14, 2016

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