



**AWPA**  
American Wire Producers Association

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**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

Inv. No. 337-TA-933

**AWPA REBUTTAL SUBMISSION ON REMEDY AND PUBLIC INTEREST**

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**W I R E I S E V E R Y W H E R E**

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AWPA REBUTTAL BRIEF

I. INTRODUCTION

The American Wire Producers Association (“AWPA”) submits these rebuttal comments in opposition to the brief filed by Viraj Profiles Ltd. (“Viraj”) on February 18, 2016, in this proceeding and pursuant to the Notice of Determination to Review an Initial Determination published by the U.S. International Trade Commission on February 8, 2016.<sup>1</sup> See Viraj Respondents’ Submission Concerning Remedy and Other Issues, dated Feb. 18, 2016 (“Viraj Remedy Brief”) at 1. The AWPA is an international trade association representing between 80 and 90 percent of the production of carbon, alloy and stainless steel wire and wire products in the United States. The 85 member companies of the Association employ more than 22,000 workers in over 215 plants and facilities located in 35 states. Among these are 12 member companies which manufacture Stainless Wire and Stainless Wire Products and represent nearly all of the U.S. production of these products. One of the AWPA’s primary interests is to ensure that the trade laws of the United States are properly enforced, particularly where those laws protect the assets and intellectual property of U.S.-based manufacturing facilities and employees. The current investigation has given rise to an unprecedented need to ensure that the integrity of those laws is maintained.

Unfortunately, Viraj’s proposed remedy would not maintain the integrity of the trade laws nor address its egregious behavior. Viraj has requested that any remedy imposed to address its

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<sup>1</sup> See Notice of Commission Determination to Review an Initial Determination Granting in Part a Motion for Default and Other Relief and, on Review, to Affirm the Default Finding: Schedule for Filing Written Submissions on Issues Under Review and on Remedy, Public Interest, and Bonding. 81 Fed. Reg. 7,584 (USITC Feb. 8, 2016) (the “Notice of Determination to Review an Initial Determination”).

trade law violation be of limited breadth and duration, and specifically that the remedy encompass only some but not all of the stainless products it produces. Viraj Remedy Brief at 1-2. Viraj's proposed remedy should be rejected given the production-related nature of the violation found and the egregious nature of Viraj's conduct. Valbruna, on the other hand, has proposed that a limited exclusion order be imposed against all stainless steel manufactured by or on behalf of, or imported by or on behalf of, Viraj and its affiliated and related companies, for a period of at least sixteen years. See Valbruna's Written Submission on Certain Issues Under Review and Remedy, Public Interest, and Bonding Brief, dated Feb. 18, 2016 ("Valbruna Remedy Brief") at 1-2, 5. The AWWA supports the application of the remedy that Valbruna has recommended against all Viraj stainless steel products sold in the United States.

**II. THE AWWA SUPPORTS A LIMITED EXCLUSION ORDER AGAINST ALL STAINLESS STEEL PRODUCED BY VIRAJ**

As the record establishes, Valbruna Slater Stainless, Inc., Valbruna Stainless Inc., and Acciaierie Valbruna S.p.A. (collectively, "Valbruna") alleged that Viraj, its affiliates and agents unlawfully imported stainless steel products manufactured using Valbruna's stolen trade secrets, including both know-how and customer lists. The trade secrets came into the possession of Viraj based on an inducement provided to a former Valbruna employee by Viraj. The Administrative Law Judge found that Viraj had engaged in "spoliation of evidence" relevant to the proceeding and concluded that Viraj's conduct was not only in bad faith but was so egregious as to warrant the sanction of a default judgment. That judgment amounted to an affirmative determination that Viraj had misappropriated Valbruna's trade secrets. The Commission affirmed that default judgment.

In this remedy phase of the proceeding, Viraj has urged the Commission to limit any exclusion order to only those stainless products that Valbruna produces in the United States and

that compete with imported stainless steel from Viraj. Viraj Remedy Brief at 1. Contrary to Viraj's arguments, as Valbruna has explained, the misappropriated trade secrets go to the essence of Valbruna's melt processes and warrant imposition of a limited exclusion order applicable to all stainless steel produced by Viraj:

Given the many years in which Viraj has possessed and used the operating practices, the hundreds of production grades of stainless steel covered by the operating practices, and the comprehensive information contained within each individual operating practice, Valbruna's trade secret information has become an inextricable part of Viraj's stainless steel manufacture.

Valbruna Remedy Brief at 12. Because the trade secret information is an inextricable part of Viraj's manufacture of stainless steel, the misappropriation of those trade secrets has benefited all stainless products that Viraj has exported to the United States. Those stainless steel products include stainless steel wire and stainless steel wire products,<sup>2</sup> as production of all stainless products begins with the melt stage.

The AWPAs support Valbruna's request that the Commission fashion a limited exclusion order on the basis of a "production injunction" rather than a "use injunction." Valbruna Remedy Brief at 6-14. While a "use injunction" would prohibit Viraj from *using* Valbruna's trade secrets, this form of remedy would be ineffective in eliminating the competitive advantage gained by the misappropriation of the trade secrets. Specifically, Viraj cannot be relied upon to "unlearn" or abandon the misappropriated technology.

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<sup>2</sup> Stainless steel wire is both an end use product and an intermediate product used to make a multitude of wire products, including, fasteners, springs, wire mesh, strand, wire rope, welding wire, and medical instruments. Stainless steel wire and wire products are used in a number of significant applications in the automotive, construction, chemical, dairy, food, pharmaceutical, and consumer industries, and thus is an important industry to the U.S. economy. A strong, healthy domestic industry producing stainless steel wire and wire products is vital to the public health and welfare of the U.S. economy.

Furthermore, Viraj could easily circumvent a use exclusion order as import documentation and/or visual inspection would not reveal the methods used to manufacture the steel. The “production injunction” would prohibit Viraj from *producing or marketing* the product that was produced using the misappropriated trade secret. Applying a remedy to only a limited set of stainless steel products would not fully address the trade secret misappropriation, as it would not encompass all products that Viraj manufactures that begin with the melt and refining part of the process. Those processes affect production of all stainless products by Viraj, including stainless wire and stainless wire products. An exclusion order limited to only certain stainless products would permit Viraj to use the misappropriated trade secrets with impunity in producing stainless steel so long as the only products it exported to the United States were downstream stainless wire and wire products. Thus, the AWWPA considers a “production injunction” covering all stainless steel products to be the most appropriate remedy in eliminating the competitive advantage gained by Viraj.

Notably, Viraj is a major Indian exporter of stainless steel wire to the United States, accounting for a substantial share of U.S. imports of stainless steel wire from India during the past two years. See Letter to Secretary Barton from Central Wire, Sumiden Wire, Tree Island Steel and Tri Star Metals dated Feb. 18, 2016, at Attachment 1 (“Stainless Wire Producers’ Letter”). Moreover, the absolute volume of imports of stainless steel wire from India has been significant in recent years. Indeed, India was the largest source of stainless steel wire imports into the U.S. market from 2013 to 2015. Id., Attachment 2. The average unit values of those imports are also lower than those of most other countries. Id.

**III. NO PUBLIC INTEREST FACTOR WEIGHS AGAINST IMPOSITION OF VALBRUNA'S PROPOSED REMEDY**

Viraj has alleged generally that a remedy unrelated to the trade secret misappropriation would harm the public by removing its products from U.S. commerce and from consumers, but has provided no support for this contention. Viraj Remedy Brief at 21. Specifically, Viraj did not address any of the factors that the Commission considers on public interest, such as effects on: public health and welfare, competitive conditions in the U.S. economy, U.S. production of articles that are like or directly competitive with those that are subject to investigation, or U.S. consumers. See 19 U.S.C. 1337(d), (f).

As discussed above, a remedy imposed against all stainless production by Viraj is related to the trade secret misappropriation and, thus, appropriate. Further, there is no indication that removing Viraj's products from U.S. commerce would have any injurious effect on consumers. Indeed, the four stainless wire producers submitting comments on February 18, 2016, stated that their companies alone had sufficient unused capacity to supply consumers with stainless steel wire if that product were not available from Viraj. All four of these companies are AWPA members. See Stainless Steel Wire Producers' Letter at 4. Given that these four producers alone have sufficient idle capacity to replace any stainless steel wire currently being supplied in the U.S. market by Viraj, the additional capacity at the eight (8) additional U.S. stainless wire producers, would only increase the amount of available supply.

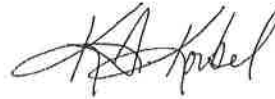
With U.S. stainless wire producers offering the same stainless steel wire and stainless wire products and shipping through the same channels of distribution as Viraj in the U.S. market, domestic stainless wire and wire products producers could easily supply all segments of the U.S. market if Viraj were to be subject to a limited exclusion order. Furthermore, there are multiple

countries that export stainless steel wire and stainless wire products to the United States that could also supply the U.S. market without disruption. Thus, U.S. consumers would not experience any supply disruptions or harm if stainless steel produced by Viraj were to be excluded from the U.S. market.

IV. CONCLUSION

The AWPAs respectfully requests that the Commission take these factors into account as it evaluates the scope of its remedy and, specifically, urges that the remedy encompass all stainless steel sold by Viraj in the United States that benefited from the misappropriation of Valbruna's trade secrets, including stainless steel wire and stainless wire products.

Respectfully submitted



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