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February 18, 2016

USITC Investigation No. 337-TA-933
PUBLIC DOCUMENT

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, DC 20436

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

Dear Secretary Barton:

On behalf of Central Wire Inc., Sumiden Wire Products Corporation, Tree Island Steel, and Tri Star Metals, LLC domestic producers of stainless steel wire¹ (collectively, the “Stainless Wire Producers”) we are writing in connection with the U.S. International Trade Commission’s review of the Initial Determination of a default judgement issued against Viraj Profiles Limited (“Viraj”) in the above-referenced investigation. Specifically, the Stainless Wire Producers wish to address the public interest factors associated with the imposition of a remedy. As U.S. producers of merchandise subject to this investigation, our primary interest 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 our U.S.-based manufacturing facilities and employees. The current

¹ Central Wire Inc., Sumiden Wire Products Corporation, Tree Island Steel, and Tri Star Metals, LLC account for the majority of U.S. production of stainless steel wire.

investigation has given rise to an unprecedented need to ensure that the integrity of those laws is maintained.

In September 2014, Valbruna Slater Stainless, Inc. (“VSSI”), Valbruna Stainless Inc. (“VSI”), and Acciaierie Valbruna S.p.A. filed a complaint with the ITC under section 337 of the Tariff Act of 1930, as amended, alleging that the Viraj, as well as several customers, unlawfully imported certain 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 theft of the trade secrets had already resulted in a criminal conviction in Italy. Valbruna asked the Commission to issue a limited exclusion order barring the importation of stainless products manufactured by Viraj that benefited from the stolen trade secrets, as well as a cease and desist order that would bar the sale of such products already in the United States.

In his initial determination, the Administrative Law Judge found that Viraj had engaged in “spoliation of evidence” relevant to the proceeding. Specifically, the ALJ found that: (1) Viraj had a duty to preserve the destroyed and missing evidence; (2) Viraj destroyed or withheld that evidence with a culpable state of mind and in bad faith; and (3) the destroyed or withheld information is relevant and its loss is prejudicial to Valbruna. In sum, the ALJ found that Viraj’s conduct in the investigation was in bad faith and was so egregious as to warrant the sanction of a default judgment, a judgment which amounted to an affirmative determination that Viraj had misappropriated Valbruna’s trade secrets. The Commission has properly affirmed that default judgment.

The issue of how to fashion a remedy is now before the Commission. Viraj is one of the largest Indian producers of stainless steel products. It has captured market share in the U.S. to the detriment of Valbruna and it has accomplished that through the misappropriation of Valbruna's trade secrets. The trade secrets go to the essence of Valbruna's melt processes, and thus the misappropriation of those trade secrets has benefited virtually every product Viraj has exported to the United States, including stainless steel wire.

Viraj is the second largest Indian exporter of stainless steel wire to the United States. Based on Datamyne, Viraj accounted for a substantial share of U.S. imports of stainless steel wire from India during the past two years. See Attachment 1. 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. See Attachment 2. U.S. imports of stainless steel wire have also surged into the U.S. market in recent years. U.S. imports from India increased significantly from 11,549 tons in 2013 to 14,463 tons in 2015, representing an increase of 25.2 percent during the three-year period. Id.

The increase in imports coincided with aggressive pricing practices that were consistently lower than imports from other countries. As reflected in U.S. import average unit values ("AUVs"), U.S. prices of imports of stainless steel wire from India declined from \$3,178 per ton in 2013 to \$2,589 per ton in 2015. Id. The AUVs of imports from India were 30 percent lower than the AUVs of total imports in 2015. Id. In fact, India demonstrated the lowest AUVs of any of the top eight countries that exported stainless steel wire to the United States from 2013 to 2015. Id.

Section 337 permits the Commission to impose a limited exclusion order against Viraj's imports into the United States. The Commission is required to take into account the public interest in fashioning that remedy. In our view, nothing is more consistent with the public interest than the exclusion of imports from a producer that has no regard for the laws or the procedures associated with those laws.

A limited exclusion order would not have a negative effect on the public health and welfare, competitive conditions in the U.S. economy, U.S. production, and/or U.S. consumers. The Stainless Wire Producers have sufficient excess capacity to supply customer requirements for stainless steel wire if Viraj were to be excluded from the U.S. market. Total imports from India were 21,641 tons in 2015. The Stainless Wire Producers have idle capacity significantly in excess of that volume of imports. Thus, U.S. producers have sufficiency capacity to supply U.S. consumers currently sourcing stainless steel from India without any disruptions to U.S. supply. With the Stainless Wire Producers offering the same stainless steel wire products and shipping through the same channels of distribution as Viraj in the U.S. market, the Stainless Wire 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 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 Viraj were to be excluded from the market.

Stainless steel wire is 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 is 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 is vital to the public health and welfare of the U.S. economy.

For the reasons stated in these petitions, the Stainless Wire Producers request that the Commission take these factors into account as it evaluates the scope of its remedy, and specifically, the broad application of that remedy to all of the products sold by Viraj in the U.S. that were found to have benefited from the misappropriation of Valbruna's trade secrets.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kathleen W. Cannon".

KATHLEEN W. CANNON

*Counsel to Central Wire Inc., Sumiden Wire
Products Corporation, Tree Island Steel, and Tri
Star Metals, LLC*

ATTACHMENT 1

**U.S. Imports of Stainless Steel Wire from India
Annual 2014 - 2015**

Shipper	Weight (kg)	% of Total
RAAJRATNA METAL INDUSTRIES	7,238,896	26.5%
VIRAJ PROFILES	6,066,204	22.2%
VENUS WIRE INDUSTRIES	4,633,058	17.0%
NOT DECLARED	2,196,428	8.0%
BEKAERT INDUSTRIES	2,076,427	7.6%
SUPERON SCHWEISSTECHNIK	1,543,830	5.7%
GARG INOX	1,250,467	4.6%
NEVATIA STEEL & ALLOYS	885,842	3.2%
PANCHMAHAL STEEL	598,787	2.2%
MACRO BARS AND WIRES	326,385	1.2%
HINDUSTAN INOX	226,289	0.8%
KHK SCAFFOLDING AND FORM WORK	75,242	0.3%
UNITED CRANE COMPONENTS	70,608	0.3%
KEI INDUSTRIES	50,946	0.2%
TEAMGLOBAL LOGISTICS	35,907	0.1%
B.S. SHAKTI STEEL	10,343	0.04%
PREMIER INDUSTRIAL	6,781	0.02%
ANAND ARC	3,085	0.01%
CONTINENTAL CARBON	2,626	0.01%
VISHAL MECHANICAL WORKS	1,212	0.004%
DRAWMET WIRES	605	0.002%
Total	27,299,969	100.0%

Source: USCBP AMS (Automated Manifest System)

(retrieved 2-18-16)

ATTACHMENT 2

**U.S. Imports of Stainless Steel Round Wire, HTS # 7223.0010
Annual 2013 - 2015**

	Quantity (short tons)		
	2013	2014	2015
India	11,549	14,146	14,463
Korea	8,600	8,951	7,740
China	7,433	8,381	7,739
Canada	2,712	2,692	1,745
Taiwan	3,242	2,670	2,508
Germany	983	1,120	1,568
Sweden	859	1,016	770
Italy	1,214	967	1,041
United Arab Em	347	649	568
Switzerland	637	613	526
Thailand	664	612	424
Japan	656	568	586
Ireland	164	252	312
United Kingdom	172	147	55
Czech Republic	38	95	651
<i>All Others</i>	<i>328</i>	<i>146</i>	<i>492</i>
Total	39,598	43,025	41,190

	Value (Customs, USD)		
	2013	2014	2015
India	36,707,392	44,988,338	41,352,876
Korea	39,731,441	42,999,449	36,038,447
China	23,742,951	26,779,799	23,864,654
Canada	14,310,133	14,381,978	11,289,242
Taiwan	19,116,998	16,149,713	13,749,608
Germany	11,771,074	9,956,674	12,583,295
Sweden	10,275,677	11,987,924	6,811,114
Italy	6,399,407	5,025,853	4,751,598
United Arab Em	920,304	1,633,745	1,550,487
Switzerland	4,153,978	4,113,923	2,937,125
Thailand	2,431,595	2,174,214	1,413,418
Japan	4,727,130	4,015,040	3,616,655
Ireland	1,210,646	2,811,504	3,053,703
United Kingdom	910,265	923,288	512,679
Czech Republic	214,266	509,193	3,137,026
<i>All Others</i>	<i>2,726,593</i>	<i>1,191,690</i>	<i>1,829,646</i>
Total	179,349,850	189,642,325	168,491,573

	AUV (\$/short ton)		
	2013	2014	2015
India	3,178	3,180	2,859
Korea	4,620	4,804	4,656
China	3,194	3,195	3,084
Canada	5,276	5,343	6,469
Taiwan	5,897	6,049	5,482
Germany	11,980	8,889	8,024
Sweden	11,967	11,802	8,845
Italy	5,270	5,195	4,563
United Arab Em	2,654	2,517	2,731
Switzerland	6,519	6,707	5,579
Thailand	3,662	3,555	3,330
Japan	7,206	7,068	6,176
Ireland	7,399	11,139	9,785
United Kingdom	5,281	6,298	9,398
Czech Republic	5,713	5,364	4,818
<i>All Others</i>	<i>8,303</i>	<i>8,184</i>	<i>3,716</i>
Total	4,529	4,408	4,091

Source: U.S. Department of Commerce and USITC