May 29, 2017

BY EMAIL

Mr. Brad Botwin
Director, Industrial Studies, Office of Technology and Evaluation
Bureau of Industry and Security
U.S. Department of Commerce
Room 1093
1401 Constitution Avenue, NW
Washington, DC 20230

Comments in Section 232 National Security Investigation of Steel Products

Dear Director Botwin:

Valbruna Slater Stainless, Inc. and its affiliates (together “Valbruna”) provides these comments in the context of the U.S. Government’s Section 232 National Security Investigation of Steel products.

As explained more fully below, Valbruna produces high-quality stainless steel long products at its plant in Fort Wayne, Indiana. Many of the steel products that Valbruna produces qualify as specialty metals used in the defense industry or in critical applications. Valbruna’s position is simple and straightforward: the U.S. Government already has a system in place to ensure that these critical materials are produced in the United States or in countries that support the United States. This system is working and there is no need to change it. If the Department of Commerce (Department) makes an affirmative determination in the case and the President decides that import measures are necessary for specialty metals, it can use the same system already in place for defense procurement of these products to ensure that imports do not adversely affect the national security of the United States.

Below, we explain: 1) who Valbruna is and how its production relates to national security; 2) the operation of the Department of Defense (DoD) acquisition rules related to purchases of specialty metals; and 3) Valbruna’s recommendation with respect to stainless steel products and specialty metals.

1. Valbruna and its products

Founded in 1925, Valbruna is a family-owned company that has been producing stainless steel and other products since the 1940s from its manufacturing facilities in Vicenza, Italy, distributing those products through its own U.S. distribution network since the 1990s, and producing stainless steel and specialty alloy products in the U.S. from its domestic plant in Fort
Wayne, Indiana, since 2004.\(^1\) Valbruna now employs more than 200 people in the U.S. in manufacturing, distribution, and sales.

Valbruna’s U.S. operations began in earnest in 1993 with the establishment of its first permanent sales office in Connecticut, but soon expanded to include sales and branch offices in Ohio and California. In 2001, Valbruna acquired a stainless steel distributor and service center headquartered in Houston, Texas, with several locations around the country, including in Chicago, Illinois. In 2004, Valbruna merged its U.S. sales and distribution efforts into one company, Valbruna Stainless, and invested in new branch facilities for its California and Chicago operations. Valbruna has since opened and upgraded office and warehousing facilities in New Jersey, Tampa, and Cincinnati. Valbruna’s U.S. sales and distribution network currently includes eight facilities around the country with over 300,000 square feet of warehousing and office space.\(^2\)

Also in 2004, Valbruna made a major strategic commitment to the U.S. market by acquiring Slater Steels, beginning domestic production of stainless steel products, and joining the Specialty Steel Industry of North America (SSINA).\(^3\) In 2003, Slater had filed for bankruptcy protection and halted production of stainless steel at its Fort Wayne location, furloughing hundreds of employees, including union steelworkers.\(^4\) The Fort Wayne mill had a history dating back to 1895, and had been manufacturing stainless steel since 1939. After Valbruna acquired the company--renamed Valbruna Slater Stainless--Valbruna quickly restarted production in Fort Wayne, hired back many of the former Slater workers, negotiated a contract with the United Steelworkers, and made significant capital investments to expand and improve the Fort Wayne manufacturing facilities.\(^5\) For example, Valbruna purchased two vacuum remelt (VAR) furnaces, an electroslag (ESR) furnace, vastly expanded its testing facility, added an automated finishing line, purchased heat treatment equipment, and recently added a straightening and peeling line.\(^6\) In 2014, Valbruna announced an investment of over $30 million to construct a new 166,000 square foot production facility in Fort Wayne, renovate two older buildings, and open a new rolling mill, a move which Valbruna expects will eventually add 45 new jobs.\(^7\) Valbruna currently employs over 125 people in manufacturing in Fort Wayne.


As a result of its investments, Valbruna is now able to produce a broad range of stainless steel products in Fort Wayne comprising austenitic, martensitic, ferritic, duplex, and superduplex stainless steel grades, as well as nickel alloys. Valbruna does not currently perform primary steel melting in the U.S., but using mainly semi-finished input from Valbruna Italy, the Fort Wayne facility manufactures hot and cold-finished stainless steel bars, stainless steel forging billets, round cornered square billets, hexagons, and cold-drawn squares. The manufacturing performed by Valbruna Slater Stainless in Fort Wayne adds significant value to the semi-finished input received from Valbruna Italy, including through VAR and ESR remelting, hot rolling, heat treatments, rough turning, peeling, polishing, cold drawing, centerless grinding, other cold finishing, testing, and certifications.

Because the semi-finished input used in the Fort Wayne facility comes from Valbruna’s Italy location—DFARS compliant “qualifying country”—as described below—Valbruna’s steel has wide application in numerous key U.S. industries, including aerospace, defense, automotive, chemical, oil and gas, power generation, nuclear, and medical. Valbruna has certifications from large customers in each of those industries. For example, Valbruna is an approved stainless steel supplier for Halliburton, Schlumberger, Bombardier, Johnson & Johnson, Delphi Automotive, and several other companies with significant defense contracts. Almost all of the products produced in Fort Wayne are distributed through Valbruna’s U.S. distribution network and facilities, although Valbruna continues to export a small volume of products from the U.S.

2. The Defense Department’s acquisition rules related to purchases of specialty metals

That certain steel products are important to the national security of the United States is beyond dispute. There may be legitimate debate on the precise boundaries of “national security” and with respect to the steel products that are essential to national security, but there are clear cases in which the steel products are so tied to the defense and security interests of the United States that they must be considered critical.

Certain specialty metals are a good example. A recent report by the Government Accounting Office recognizes the critical role of specialty metals for U.S. national security:

Specialty metals are essential to the manufacture and performance capabilities of certain Department of Defense (DOD) weapon system parts, due to their unique properties, such as being highly magnetic, lightweight, corrosion resistant, or having high durability. Among these metals are samarium-cobalt alloy magnets.

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11 Id.
used to make radar systems, as well as titanium and certain steel alloys used to make aircraft, submarines, and tactical ground vehicles. There are few, if any, substitutes for some of these metals. Specialty metals domestic source restrictions have been established to ensure that the United States has a vigorous domestic metals supply chain capable of meeting defense needs.\textsuperscript{13}

As a manufacturer of stainless steel bars comprised of high-performance grades, Valbruna’s steel is used in key defense applications such as the structural components and landing gear on aircraft, gun and rifle barrels, and munitions casings.\textsuperscript{14}

U.S. laws and regulations recognize the critical nature of these specialty metals, and, on the basis of national security considerations, impose specific requirements, including as to origin. Specifically, the Defense Federal Acquisition Regulation Supplement (DFARS) stipulate specific clauses in defense contracts with the DoD.\textsuperscript{15} While the rules are complex, the can be reduced to this: certain products are so important to defense and national security needs that they can only be procured by the DoD if they originate in the United States or in a otherwise “qualifying” or “designated” country.

- Section 7021(c) requires that the contractor shall only deliver U.S.-made, qualifying country, or designated country end products.\textsuperscript{16} End products are generally defined as those articles, materials, and supplies to be acquired under a defense contract with the DoD for public use.\textsuperscript{17} This means that in order for end products to be supplied under such contract, the end product must either be one made in the U.S. or must fit the definitions for non-U.S. produced locations (qualifying country/designated country) as well as the definition for non-U.S. produced end products (qualifying country end products/designated country end products).

The definition of a “qualifying country” is found in 7021(a).\textsuperscript{18} Many countries, mostly those who have bilateral or multilateral trade agreements with the United States, fall


\textsuperscript{15} The specialty metals clause (DFARS 252.225-7009) requires that specialty metals procured for DoD articles must be melted or produced in the United States, its outlying areas, or in a qualifying country, unless an exception applies.

\textsuperscript{16} 48 C.F.R. 252.225-7021(c) (2017).

\textsuperscript{17} Id. at 225-7021(a).

\textsuperscript{18} 48 C.F.R. 252.7021(a) (2017) (defining a qualifying country as one “with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country....”).
under the definition of a qualifying country. Italy, for example, a member of NATO, is considered a qualifying country under this definition. 19

The definition of a “designated country” is also found within 7021(a). There are four types of designated countries under 7021(a). These include (1) a World Trade Organization Government Procurement Agreement (WTO GPA) country, (2) a Free Trade Agreement country, (3) a least developed country, or (4) a Caribbean Basin country. In addition to being a qualifying country, Italy is also considered a WTO GPA designated country under 7021(a). 20

- 7009(b) requires that any specialty metal incorporated in items delivered under a DoD defense contract must be melted or produced in the United States, its outlying areas, or a qualifying country. 21 This means that the DoD may contract with foreign producers who fall under the category of a qualifying country. The two relevant definitions to this provision are qualifying countries and specialty metals.

Defined under 7009(a), specialty metals include four types of metals: (1) steel, (2) certain metal alloys, (3) titanium and titanium alloys, or (4) zirconium and zirconium alloys. The only definition relevant for current purposes is the definition of steel as a specialty metal. “Steel” refers to an iron alloy that includes between .02 and 2 percent carbon and may include other elements. For a product labeled as steel to be considered a specialty metal, it must surpass either one of two limits. The first limit is that the steel must have a maximum alloy content exceeding one or more of the following: manganese, 1.65 percent; silicon, 0.60 percent; or copper, .060 percent. Alternatively, the steel must contain more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, molybdenum, nickel niobium (columbium), titanium, tungsten, or vanadium. 22

As the GOA report confirms, “[s]pecialty metals and their potential applications in DOD weapon systems include: steel alloys such as those used for ship hulls; metal alloys consisting of nickel and iron-nickel; certain cobalt base alloys such as samarium-cobalt alloy magnets used in radars; titanium and titanium alloy used in aircraft engine parts; and zirconium and zirconium base alloys used in gas turbine engines.” 23

The definition of a qualifying country under 7009(a) cross-references the definition in 225.003 of DFARS. A “qualifying country” is defined under 252.003 as a country with a reciprocal defense procurement memorandum of understanding or international

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19 Id. (“Accordingly, the following are qualifying countries: ...Italy”). In addition, as set forth above, Valbruna Slater Stainless is a member of SSINA, along with other companies such as ATI Specialty Metals and Carpenter Technology Corporation that are strategically important to the U.S. defense specialty metal supply chain.

20 Id.


22 Id. at 7009(a).

agreement with the United States in which both countries agree to remove barriers to
purchasers of supplies produced in the other country or services performed by sources of
the other country, and the memorandum or agreement complies, where applicable, with
the requirements of section 36 of the Arms Export Control Act and with 10 U.S.C. 2457.
Italy is considered a qualifying country for purposes of 252.003.24

The relevance of these provisions to the current investigation is clear. A system already exists to
ensure that certain steel products needed for defense and national security originate in the United
States or in other trusted countries, including NATO-member states. The system works and can be the basis for achieving the purposes of this investigation.

3. Recommendations

On the basis of the above, if the Department decides to impose import measures, Valbruna respectfully recommends:

- Any remedy that may be proposed by the Department should not interfere with the system already operating successfully with respect to DoD procurement contracts involving certain specialty metals; and

- For transactions occurring outside the context of DoD procurement, the Department should consider adopting a system similar to that used for specialty metals in defense procurements so that designated or qualifying countries can continue to supply materials to the U.S. market.

In conclusion, let me express our sincere appreciation for the efforts of this Administration to undertake this critical investigation and for the opportunity to provide our views. Thank you.

Yours sincerely,

[Signature]

Secretary

Valbruna Slater Stainless Inc.