

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

)	
In the Matter of)	
)	Inv. No. 337-TA-505
CERTAIN GUN BARRELS USED IN)	
FIREARMS TRAINING SYSTEMS)	
)	

NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND BONDING WITH RESPECT TO RESPONDENTS FOUND IN DEFAULT

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission is requesting briefing on remedy, public interest, and bonding with respect to the respondents found in default in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. 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: This patent-based section 337 investigation was instituted by the Commission based on a complaint filed by Beamhit, LLC, and Safeshot, LLC, both of Columbia, Maryland, and Safeshot, Inc., of New York, New York. 69 Fed. Reg. 12346 (March 16, 2004). The complainants alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain gun barrels used in firearms training systems by reason of infringement of claims 1, 2, 4, 5, 8, 15, 21, 22, and 26 of U.S. Patent No. 5,829,180 and claims 1-3, 7, 9, 14-18, 20, 24, 27, 32, 33, 37-40, 44, 45, 49-51, and 54 of U.S. Patent No. 6,322,365. The complaint named Widec S.A. Décolletage ("Widec"), of Moutier, Switzerland, AMI Corp. SA ("AMI"), of Moutier Switzerland, Crown AirMunition Holding, of Hilversum, The Netherlands, AirMunition International Corp. of Hilversum, The Netherlands, AirMunition Industries S.A., of Belprahon-Moutier, Switzerland, and AirMunition North America, Inc., of Norcross Georgia as respondents.

On April 27, 2004, complainants filed a motion, pursuant to Commission Rule 210.16, for an order to show cause and entry of a default judgement against Crown AirMunition Holding, AirMunition International Corp., AMI Corp. SA, and AirMunition North America (collectively “the AirMunition respondents”). The Commission investigative attorney (“IA”) supported the motion. None of the respondents filed a response to the motion. On May 12, 2004, the administrative law judge (“ALJ”), issued a show cause order (Order No. 6). The order required the AirMunition respondents to show cause why they should not be held in default, having not responded to either the complaint or the notice of investigation. The respondents did not respond to the show cause order. On August 16, 2004, complainants filed a motion for an order finding the AirMunition respondents in default due to the respondents’ failure to respond to the ALJ’s show cause order.

On September 2, 2004, the complainants and respondents Widec and AMI filed a joint motion to terminate the investigation as to Widec and AMI. The joint motion was based on a proposed consent order, filed pursuant to a settlement agreement and a limited license. The IA filed a response in support of the motion on September 13, 2004. The ALJ issued an initial determination (“ID”) on September 21, 2004, terminating the investigation as to Widec and AMI. No petitions for review of this ID were filed. On October 12, 2004, the Commission issued a notice indicating that it would not review the ID, thereby making the ALJ’s ID the Commission’s final determination

On September 21, 2004, the ALJ issued an ID finding the AirMunition respondents in default. Pursuant to Commission Rule 210.16(b)(3), the ALJ also found that the AirMunition respondents had waived their right to appear, be served with documents or contest the allegations in the complaint. No petitions for review of this ID were filed. On October 12, 2004, the ALJ’s ID became the Commission’s final determination after the Commission issued a notice indicating that it would not review the ID.

On October 12, 2004, pursuant to Commission Rule of Practice and Procedure 210.16(c)(1), 19 C.F.R. § 210.16(c)(1), complainants filed a declaration seeking immediate entry of relief against the AirMunition respondents.

Section 337(g)(1), 19 U.S.C. 1337(g)(1), and Commission Rule 210.16(c), 19 CFR 210.16(c), authorizes the Commission to order limited relief against a respondent found in default unless, after consideration of public interest factors, it finds that such relief should not issue. The Commission may issue an order that could result in the exclusion of the AirMunition respondents’ products from entry into the United States, and/or issue one or more cease and desist orders that could result in the AirMunition respondents being required to cease and desist from engaging in unfair acts in the importation and sale of their products. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2)

competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on November 22, 2004. Reply submissions must be filed no later than the close of business on November 30, 2004. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All non-confidential written submissions will be available for public inspection at the Office of the Secretary.

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 section 210.16(c) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.16(c)).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: November 10, 2004