Commission Implementing Regulation (EU) 2015/1953 of 29 October 2015 imposing a definitive anti-dumping duty on imports of certain grain-oriented flat-rolled products of silicon-electrical steel originating in the People's Republic of China, Japan, the Republic of Korea, the Russian Federation and the United States of America

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THE EUROPEAN COMMISSION,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('basic Regulation')[(1)], and in particular Article 9(4) thereof,

Whereas:

A. PROCEDURE

1. Provisional Measures

(1) On 13 May 2015, the European Commission ('the Commission') imposed a provisional anti-dumping duty on imports of certain grain-oriented flat-rolled products of silicon-electrical steel ('GOES') originating in the People's Republic of China ('PRC'), Japan, the Republic of Korea ('Korea'), the Russian Federation ('Russia') and the United States of America ('USA') (together, referred to as 'the countries concerned') by Regulation (EU) No 2015/763 ('the provisional Regulation')[(2)].

(2) The proceeding was initiated on 14 August 2014 following a complaint lodged on 30 June 2014 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union producers of GOES.

(3) As set out in recital (15) of the provisional Regulation the investigation of dumping and injury covered the period from 1 July 2013 to 30 June 2014 ('the investigation period or IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period ('the period considered').

2. Subsequent procedure

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('the provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an

opportunity to be heard. Hearings with the Hearing Officer in trade proceedings were held with the Japanese exporting producers JFE Steel Corporation and Nippon Steel & Sumitoma Metal Corporation.

(5) As set out in recitals (27), (224) and (239) of the provisional Regulation, the Commission continued to seek and verify all information it deemed necessary for its definitive findings. Five additional verification visits were carried out after the imposition of the provisional measures at the premises of the following users in the European Union:

— Siemens Aktiengesellschaft, München, Germany

— ABB AB, Brussels, Belgium

— SGB-Smit Group, Regensburg, Germany

— Končar — Distribution and Special Transformers, Inc., Zagreb, Croatia

— Schneider Electric S.A., Metz, France

(6) In addition, three verification visits were carried out at the premises of the following Union producers:

— ThyssenKrupp Electrical Steel UGO SAS, Isbergues, France

— ThyssenKrupp Electrical Steel GmbH, Gelsenkirchen, Germany

— Tata Steel UK Limited (Orb Electrical Steels), Newport, United Kingdom

(7) All parties were informed of the essential facts and considerations on the basis of which the Commission intended to impose definitive anti-dumping measures. They were also granted a period within which they could make representations subsequent to this disclosure. A hearing with the Hearing Officer in trade proceedings was held with a user association.

(8) The Commission considered the oral and written comments submitted by the interested parties and, where appropriate, modified the findings accordingly.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(9) As set out in recital (16) of the provisional Regulation, the product concerned is grain-oriented flat-rolled products of silicon-electrical steel, of a thickness of more than 0,16 mm originating in the PRC, Japan, Korea, Russia and the USA, currently falling within CN codes ex 7225 11 00 and ex 7226 11 00 (‘the product concerned’).

(10) Some interested parties argued that the product concerned, as set out in recital (16) of the provisional Regulation, and the like product are not alike as stated in recital (22) of the provisional Regulation since they do not share the same physical and chemical characteristics and are not used for the same purposes. Three exporting producers, a user association and two individual users claimed that high permeability and/or domain refined types of the product concerned should be excluded from the scope of the investigation since these types are either not produced in sufficient quantities or not produced at all in the Union. One of these exporting producers specified that this should be types of the product concerned with a maximum core loss of 0,90 W/kg and below with a magnetic polarisation of more than 1,88 T. Another exporting

producer requested the exclusion of types with a maximum core loss of 0,95 W/kg and below due to the limited competitive overlap with products offered by the Union industry. Another exporting producer argued that types of the product concerned with a maximum core loss of 0,90 W/kg at 1,7 T/50 Hz or less and a permeability (induction) of 1,88 T or more as well as types with a maximum core loss of 1,05 W/kg at 1,7 T/50 Hz or less and a permeability (induction) of 1,91 T or more should be excluded. Furthermore, one user argued that types of the product concerned with a maximum core loss of 0,80 W/kg at 1,7 T/50 Hz or less as well as low noise types with a B800 factor of 1,9 T or above should be excluded. Some of them also argued that the product types with the lowest core losses have significantly different properties, end-uses, and therefore are not bought by the same customers and do not compete with other types of the product concerned. Furthermore, another user argued that two separate injury, causal link and Union interest analyses should be carried out. Finally, another user asked for the withdrawal of the provisional measures, and, if this would not be possible, that at least the high permeability types (i.e. types with a maximum core loss of 0,90 W/kg and lower) should be excluded from the product scope.

(11) Following final disclosure, several interested parties reiterated the same request. One user argued that the fact that the Commission established separate minimum import prices for three different categories of GOES showed the relevance of considering the different categories separately and would therefore justify an exclusion.

(12) The Commission considered that the product concerned, irrespective of core loss or noise levels, whether conventional or high-permeability products, are flat-rolled alloy steel products having a grain-oriented structure that permits the product to conduct a magnetic field. The grain orientation narrows the technical and physical characteristics of the steel to a unique product having an extraordinarily large grain structure. Accordingly, the product definition comprises a well-defined product. It was also found that all types of the product concerned share common chemistry and have one principal use, i.e. in the production of transformers. In addition, there is some degree of interchangeability among the different types of the product concerned.

(13) Concerning the argument that exclusion would be justified due to the insufficient production of some particular types of the product concerned by Union producers, it should firstly be recalled that nothing in the basic Regulation requires that all types of the product concerned are produced by the Union industry at commercial scale. In addition, several high permeability product types were produced by the Union industry in the IP. As mentioned in recital (131) below, the verification also showed that Union producers have been investing in the production of high permeability types of the product concerned which will allow them to increase the production of high permeability GOES. Furthermore, as stated in recital (12), the definition of the scope of the product under investigation is governed by the technical characteristics of the GOES. The requested exclusion could reduce the level of protection against further injurious dumping with regard to the particular high permeability types and thus perpetrate their current production rates by the Union industry. In these circumstances,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1953. (See end of Document for details)*

the fact that certain product types of high permeability GOES are not produced by the Union industry is not a sufficient reason to exclude them from the product scope.

(14) Concerning the allegation that the separation into three different categories of GOES (see recital (11)) showed that an exclusion is justified, it is recalled that the investigation covers the product concerned as defined in recital (9) and therefore, one comprehensive injury analysis, causation analysis and Union interest analysis was carried out. The fact that the Commission acknowledged differences in quality between the different product types and that these differences in quality were taken into account in the decision about the form of the measures in the framework of the Union interest test, as explained below in recital (172), cannot be a reason to change the scope of the measures.

(15) In view of the above, the Commission rejected the requests to exclude these product types from the product scope. The Commission considered the differences in quality, though, for the form of the measure (see recital (172)).

(16) One Russian exporting producer argued that on the one hand their 'first choice' exported types of the product concerned (with higher flatness and fewer welding seams) and on the other hand their 'second' and 'third choice' exported types (with multiple defects, number of stitches and lack of flatness) are, as per the Russian industry practice, not interchangeable to any extent (both ways) and constitute different products. Therefore, they argued that 'second' and 'third choice' material be excluded from the product scope.

(17) Following final disclosure, the Russian exporting producer repeated its claim and alleged that these 'second' and 'third choice' exported types can only be used in the transformer industry in some limited applications if they are further processed in steel service centres and should therefore be excluded.

(18) The current description and the CN code of the product concerned potentially include a wide variety of types from a quality perspective. However, production of a lower quality product by both the Union and exporting producers is inherent to the production process and lower quality types are made from the same basic material and on the same production equipment. The so-called 'second' and 'third choice' exported types are also sold for use in the transformer business, and fully meet the definition of the product concerned. The fact that further processing is needed is not unusual and cannot be a reason to exclude a product type. Therefore, the Commission rejected this request.

(19) In view of the above, the Commission concluded that the product concerned produced and sold in the countries concerned and the one produced and sold by the Union industry are alike, within the meaning of Article 1(4) of the Basic Regulation. Recitals (16) to (21) of the provisional Regulation are hereby confirmed.

C. DUMPING

1. General methodology

(20) In the absence of any further comments on the Commission's general methodology used for the dumping calculations, recitals (33) to (45) of the Provisional Regulation are hereby confirmed.

2. **Republic of Korea**

2.1. *Normal value*

(21) Following provisional disclosure, the sole exporting producer pointed out that the company's inland freight and handling charges should have been deducted from the normal value. Moreover, the conversion cost from full coils to slit coils had to be slightly adjusted. In line with the general methodology as set out in recital (56) of the provisional Regulation, this claim was accepted and the calculations were amended accordingly. Consequently, the findings in recital (46) of the Provisional Regulation are amended with regard to the exporting producer.

2.2. *Export price*

(22) The exporting producer claimed that it formed a single economic entity with its trading companies and its related companies in the Union and that therefore no adjustment under Article 2(9) of the basic Regulation to determine the export price should have been done.

(23) It is undisputed that the exporting producer and the related importers belong to the same group of companies. Therefore, an association is deemed to exist between them. In such circumstances, the Commission has to construct the export price under Article 2(9) of the basic Regulation. The claim was therefore rejected and recitals (50) to (54) of the provisional Regulation are confirmed.

2.3. *Comparison*

(24) The exporting producer also claimed a level of trade adjustment under Article 2(10) of the basic Regulation arguing that domestic sales were made by the related traders to end-users whereas export sales were *de facto* constructed as a price to distributors because the Commission deducted the SG&A and profit margins of the related traders in the Union under Article 2(9) of the basic Regulation.

(25) The fact that the export price was constructed under Article 2(9) of the basic Regulation does not imply that the level of trade at which the export price was determined changed. The basis for the constructed export price remains the price charged to end-users. A level of trade adjustment is not warranted in this case as the exporting producer was selling at the same level of trade on both the domestic market and on the Union market. In any event, the exporting producer did not provide evidence that the alleged difference in levels of trade had affected price comparability, as demonstrated by consistent and distinct differences in functions and prices of the seller for the different levels of trade in the domestic market of the exporting country. Rather, it only claimed that the adjustment should be equal to the adjustment made