Council Implementing Regulation (EU) No 214/2013 of 11 March 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain organic coated steel products originating in the People's Republic of China

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

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[(1)] ('the basic Regulation'), and in particular Article 9 and 14(1) thereof,

Having regard to the proposal submitted by the European Commission after consulting the Advisory Committee,

Whereas:

1. PROVISIONAL MEASURES

(1) The European Commission ('the Commission'), by Regulation (EU) No 845/2012[(2)] ('the provisional Regulation') imposed a provisional anti-dumping duty ('the provisional measures') on imports of certain organic coated steel products ('OCS') originating in the People's Republic of China ('PRC').

(2) The proceeding was initiated following a complaint lodged on 7 November 2011 by Eurofer ('the complainant') on behalf of producers representing a major proportion, in this case more than 70 %, of the total Union production of OCS. The complaint contained *prima facie* evidence of dumping of OCS and of material injury resulting from it, which was considered sufficient to justify the initiation of a proceeding.

2. SUBSEQUENT PROCEDURE

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('the provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted the opportunity to be heard.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 214/2013. (See end of Document for details)*

(4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. Further verification visits were carried out at the premises of the following company:

— Macrometal, Hamburg

(5) Subsequently all parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain organic coated steel products originating in the PRC and the definitive collection of the amounts secured by way of provisional duty ('the final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.

(6) The comments submitted by the interested parties were considered and taken into account where appropriate.

2.1. **Investigation period**

(7) As set out in recital (12) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP ('the period considered').

3. PRODUCT CONCERNED AND LIKE PRODUCT

3.1. **Product exclusion requests**

(8) Recitals (19) and (20) of the provisional Regulation stated that the Commission had received several requests for product exclusion and that no conclusions had been reached at the time of the provisional Regulation being published.

(9) After disclosure of the provisional findings, more requests were received and have been analysed as follows:

3.1.1. *OCS with metallic coating of chromium or tin*

(10) A user of OCS submitted a request to exclude OCS with a substrate with a metallic coating of chromium or tin from the product scope. The investigation established that the metallic coating of chromium or tin renders this product type physically and chemically different to the OCS under investigation. OCS with a substrate with a metallic coating of chromium or tin is almost exclusively used in the food packaging and cable industries. The Union industry also explained that it had not intended this product to form part of the product scope. For these reasons OCS with a substrate with a metallic coating of chromium or tin has been excluded from the product scope of the investigation.

(11) The China Iron and Steel Association ('CISA'), two importers and one user proposed the exclusion of four other product types. These requests were analysed and rejected as below.

3.1.2. *Hot-rolled plates with protective primer, whether organic or inorganic*

(12) This request was rejected because these products do not fall under the CN codes under investigation. The painting or coating is only for rust protection and those products therefore fall under CN heading 7208 and not CN heading 7210. Hot-rolled plates with a protective primer, whether organic or inorganic, are not included in the product scope and as a result cannot be removed from it.

3.1.3. *OCS with substrate thickness between 0,6 and 2,0 mm*

(13) CISA and two importers requested the exclusion of OCS with substrate thickness between 0,6 and 2,0 mm, representing 5 – 10 % of imports from China, stating that there was only direct competition between Chinese exports and Union industry production for OCS with substrate thickness of between 0,25 and 0,6 mm.

(14) This request was rejected given that both Chinese exporters and the Union industry manufacture and sell OCS with a substrate thickness of between 0,6 and 2,0 mm and that therefore these products are clearly in competition with each other. No evidence was provided to show that OCS with a substrate thickness of over 0,6 mm does not compete with OCS with a substrate thickness of less than 0,6 mm and that therefore this would constitute a different product type. OCS with substrate thickness of less than and above 0,6 mm have the same basic physical and technical characteristics and same end uses and therefore are the same product.

3.1.4. *OCS with aluminium-zinc alloy coated substrate*

(15) The two importers alleged that only four Union producers have the licence to produce this product type and that only one company was in fact producing it. They also alleged that this product differs from zinc coated OCS in terms of product characteristics.

(16) This request was rejected as the two product types are interchangeable with overlapping uses and at least two cooperating Union producers manufactured this product type during the investigation period. It should be noted that only one cooperating Chinese exporting producer exported this product type to the Union during the investigation period.

3.1.5. *OCS with zinc alloy coated substrate*

(17) This request was rejected because, contrary to the assertion of one user, this product is produced and sold in significant quantities by several Union producers and has the same essential physical and technical characteristics and end uses as other types of OCS.

3.2. **Product inclusion request**

(18) Following disclosure of the provisional findings, one association requested that OCS with a metallic coating of chromium or tin, classified under TARIC codes 7210 12 20 10 and 7210 50 00 10 be included in the product scope. This request was

rejected as these codes were not included in the original complaint and the products covered by such codes have different physical and technical characteristics from the products covered by the complaint.

3.3. **Product concerned**

(19) Given the acceptance of the exclusion of OCS with metallic coating of chromium or tin, the provisional findings with regard to the product concerned, outlined in recitals (13) and (14) of the provisional Regulation, are amended by this exclusion.

(20) The product concerned is therefore certain organic coated steel products ('OCS'), i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating of chromium or tin, currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70, and originating in the People's Republic of China ('the product concerned').

3.4. **Like product**

(21) Since no comments were received with regard to the conclusions outlined in recitals (15) to (18) of the provisional Regulation, the provisional findings with regard to the like product are hereby confirmed.

4. **DUMPING**

(22) Several Chinese exporting producers submitted comments on dumping following the imposition of provisional measures and the disclosure of the Commission's provisional findings to the Chinese exporting producers.

4.1. **Market economy treatment ('MET')**

(23) In the absence of any comments concerning MET, recitals (21) to (38) of the provisional Regulation are hereby confirmed. None of the two groups of cooperating exporters in the PRC that had requested MET could show that they fulfilled the criteria for being granted MET.

4.2. **Individual treatment ('IT')**

(24) Two exporting producers in the PRC met the criteria for being granted IT (recital (40) of the provisional Regulation). Another party reiterated its claims to be granted IT and individual examination. Indeed, this party withdrew its MET claim but maintained its request to be granted IT, as well as individual examination. This claim was considered as a claim for individual examination and therefore included in the requests mentioned in recital (41) of the provisional Regulation. In accordance with Article 9(5) and 9(6) of the basic Regulation, individual duties shall be applied to imports from any exporter or producer which will be granted individual examination,

as provided for in Article 17(3) of the basic Regulation. As explained in more detail in recitals (26) to (31) below, the claim for an individual duty for this party was rejected.

(25) In the absence of any other comments on IT, recitals (39) to (40) of the provisional Regulation are hereby confirmed.

4.3. **Individual examination ('IE')**

(26) Claims for individual examination were submitted by eight exporting producers pursuant to Article 17(3) of the basic Regulation. As explained in recitals (41) and (42) of the provisional Regulation, hereby confirmed, one exporting producer, Union Steel China, which requested MET, was inspected in the framework of the examination of its MET claim.

(27) With regard to all other claims for individual examination, it was concluded that individual examinations would be unduly burdensome and would prevent the completion of the investigation in good time. Accordingly, these claims were not accepted.

(28) One party argued that its request cannot be considered as administratively burdensome after the provisional stage the Commission services still have six months before the definitive determination. Also, in recent proceedings the Commission services have granted individual examination after the provisional stage.

(29) Another party, already referred to in recital (24) above, argued that it should be granted individual examination as it has submitted the necessary information within the time limits set and as individual examination was already granted to another exporting producer, Union Steel China.

(30) Decisions whether or not to accept individual examinations are taken on a case by case basis, taking into account the number of claims submitted and the time available to assess these claims. In this case, in view of the number of claims submitted, the limited time available after the examination of the sampled exporting producers and the MET claim of the exporting producer which was not included in the sample and the procedural deadlines which need to be respected, it was decided that these claims cannot be accepted, as set out in recital (27) above.

(31) As explained in recital (41) of the provisional Regulation, with regard to Union Steel China the circumstances were different as this company was already inspected in the framework of the examination of its MET claim.

4.4. **Normal value**

4.4.1. *Analogue country*

(32) No further comments were received concerning the selection of Canada as the analogue country. Therefore recitals (43) to (49) of the provisional Regulation are hereby confirmed.

4.4.2. *Determination of normal value*