Council Regulation (EC) No 435/2008 of 19 May 2008 amending Regulation (EC) No 1371/2005 imposing a definitive anti-dumping duty on imports of grain-oriented flat-rolled products of silicon-electrical steel originating in the United States of America and Russia and repealing the anti-dumping duties imposed by Regulation (EC) No 1371/2005 on imports of grain-oriented flat-rolled products of silicon-electrical steel originating in Russia

COUNCIL REGULATION (EC) No 435/2008

of 19 May 2008

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Articles 9 and 11(3) thereof,

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

Whereas:

A. MEASURES IN FORCE

(1) By Regulation (EC) No 1371/2005[(2)], the Council imposed a definitive anti-dumping duty on imports of grain-oriented flat-rolled products of silicon-electrical steel ('GOES') originating in the United States of America ('USA') and Russia (the 'definitive Regulation').

(2) By Decision 2005/622/EC[(3)], the Commission accepted price undertakings offered by two cooperating exporting producers whose exports to the Community of GOES are subject to a company-specific duty of 31,5 % (AK Steel Corporation, USA) and 11,5 % (Novolipetsk Iron and Steel Corporation ('NLMK'), Russia). The anti-dumping duties applicable to imports from all other companies, except Viz Stal, Russia, which is subject to a duty of 0 %, are 37,8 % for the USA and 11,5 % for Russia.

B. REQUEST FOR REVIEW

(3) The Commission was notified in early 2007 that NLMK had acquired 100 % of Viz Stal. Evidence was provided regarding the production, sales and distribution of GOES under the new corporate structure. As a consequence, the circumstances on the basis of which the measures were established appeared to have changed in a lasting way

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and the dumping margin under the new corporate structure appeared to be significantly different as compared to the level of the measures in force.

(4) Having determined that there was sufficient *prima facie* evidence that the individual duties in force for NLMK and Viz Stal were no longer appropriate, and after consulting the Advisory Committee, the Commission initiated ex officio, by a notice ('notice of initiation') published in the *Official Journal of the European Union*, a partial interim review in accordance with Article 11(3) of the basic Regulation[4]. The investigation was limited to the examination of the level of dumping for the two Russian exporting producers NLMK and Viz Stal in order to calculate one single measure for the new joint company. As stated in the notice of initiation, this examination would be made on the basis of data collected during the investigation that led to the imposition of the existing measures.

C. PRODUCT UNDER REVIEW

(5) The product under review is grain-oriented flat-rolled products of silicon-electrical steel, of a thickness of more than 0,16 mm, currently classifiable within CN codes ex 7225 11 00 (of a width of 600 mm or more) and ex 7226 11 00 (of a width of less than 600 mm).

(6) GOES are produced from hot-rolled coils of silicon-alloyed steel of different thicknesses of which the particular grain structure is uniformly directed in order to allow for magnetic conductivity with a high degree of efficiency. Inefficiency with regard to this magnetic conductivity is called 'core loss', which is the prime indicator of the quality of the product.

(7) The market is typically divided into high conductivity or high permeability grades and regular grades. The high permeability grades allow lower core losses to be achieved for any given thickness of the sheets. Such characteristics are especially relevant for industrial producers of electrical power transformers.

D. INVESTIGATION

(8) The Commission advised the Community producers of GOES, all known Community importers and users as well as all known exporting producers in the USA and Russia of the initiation of the review.

(9) The Commission requested information from all the abovementioned parties and from the other parties who made themselves known within the time limit set in the notice of initiation of the investigation. The Commission also gave the interested parties the opportunity to make their views known in writing and to request a hearing.

E. RESULTS OF THE INVESTIGATION

1. Determination of dumping

(10) As stated above, the calculation of the dumping margin for the merged entity was based on the data collected during the investigation period of the investigation that led to the imposition of the existing measures ('the original investigation period'). On

this basis, a weighted average of the dumping margins established for NLMK and Viz Stal results in a dumping margin of 0,7 % for the new merged entity.

2. Lasting nature of changed circumstances

(11) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances could reasonably be said to be of a lasting nature. In this regard, the new company, OJSC Novolipetsk Steel, cooperated in the investigation and provided relevant information. With regard to the product flow of this company's exports to the Community, cooperation was also obtained from the following unrelated companies:

— Tuscany Intertrade UK, Edinburgh, United Kingdom,

— Moorfield Commodities Company, Lugano, Switzerland.

On-the-spot investigations were made at the premises of both of these companies.

(12) Formerly, NLMK exported to the Community via its related company Stinol AG (Switzerland). However, it was found that, since the beginning of 2006, all sales by NLMK to the Community have been made via the independent traders Tuscany Intertrade UK and Moorfield Commodities Company. Stinol AG has been a dormant company since the end of 2005.

(13) Viz Stal was formerly part of the Duferco group and exported via Duferco subsidiaries such as Duferco SA Switzerland and Duferco Commerciale Italy. Since May 2006, all of Viz Stal's sales to the Community have been made via the independent trader Moorfield Commodities Company.

(14) It was also verified that, since its establishment, the new entity, OJSC Novolipetsk Steel, as regards its imports into the Community, has only sold via these two traders thereby continuing to use the same sales channels for sales of GOES to the Community market.

(15) In regard to import prices from the two former companies, NLMK and Viz Stal, following the acceptance of a price undertaking in August 2005, NLMK submitted all relevant monitoring information, as required by the terms of the undertaking, to the Commission on a quarterly basis. Following the takeover by NLMK, Viz Stal has voluntarily reported its sales since August 2006 under the framework of the undertaking. It was verified that the current price undertaking for the former NLMK was respected by both the former NLMK and Viz Stal companies.

(16) It was found, in fact, that the prices at which Viz Stal, whose products are subject to 0 % anti-dumping duty, has sold GOES on the Community market since August 2006 were higher than those at which the company had sold during the original investigation period. It was also noted that Viz Stal accounted for the bulk of sales of both companies during the original investigation period, and continued to export significantly greater quantities of GOES to the EC than NLMK.

(17) Since the existing measures were imposed in August 2005, Community and world market prices have increased significantly. With continuing high world demand

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for steel products, it is not expected that market prices for GOES will fall in the short- to medium-term. In light of this fact, as well as the fact that Viz Stal (which continued in 2006 to account for significantly greater sales quantities of GOES to the EC than NLMK and was found not to be dumping during the original investigation) has increased its prices since August 2006, it is considered that the findings in recital (10) above are of a lasting nature.

F. CONCLUSION

(18) It was found in the original investigation that NLMK and Viz Stal accounted for the entirety of known imports of GOES into the Community from Russia[(5)]. It was also found that OJSC Novolipetsk Steel continues to account for all exports of GOES from Russia to the Community. In light of this, as well as the fact that the dumping margin for OJSC Novolipetsk Steel is at a *de minimis* level, it is concluded that the anti-dumping measures concerning imports of GOES from Russia should be repealed and the proceeding terminated in accordance with Article 9(3) of the basic Regulation.

(19) In light of this conclusion, the Commission decided by Decision 2008/384/EC[(6)] that the undertaking accepted from NLMK by Decision 2005/622/EC should be repealed.

G. DISCLOSURE

(20) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to repeal the measures concerning imports of GOES from Russia and to terminate the proceeding. All parties were given an opportunity to comment. The comments received were not of a nature to change the conclusions.

(21) Following disclosure, the Community industry claimed that it has not been substantiated that, as mentioned in recital (17) above, market prices for GOES will not fall in the short- to medium-term and, as a result, the termination of the proceeding is not warranted. In support of its claim that the proceeding should not be terminated, the Community industry states that during the next two years, world capacities for the production of GOES will be expanded by more than 40 % and will significantly exceed demand. The bulk of these capacity increases will occur in the People's Republic of China. In these circumstances, the Community industry considers that Russia will be pushed away from the Chinese market and will redirect its exports to the European Union ('EU'). In light of the above, the Community industry considers that the termination of the proceeding is not based on changed circumstances of a lasting nature.

(22) It is noted, however, that the current investigation has examined the dumping margin for the new merged entity. This has been found to be at a *de minimis* level as described in recitals (10) and (18) above. As stated in recital (11) above, an examination has been made as to whether or not this dumping margin, as well as the new structure of the company, can be considered to be of a lasting nature. The investigation has confirmed the lasting nature of these changed circumstances. The fact that Russian exporters might export additional quantities to the EU in the coming years does not alter the conclusion regarding the lasting nature of these changed circumstances,