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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 41/2008

of 14 January 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

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 Article 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 that were imposed a company specific duty of 31,5 % (AK Steel Corporation, USA) and 11,5 % (Novolipetsk Iron and Steel Corporation (NLMK), Russia) respectively. The country-wide anti-dumping duties applicable to all other companies, except Viz Stal, Russia, subject to a duty of 0 %, are 37,8 % for USA and 11,5 % for Russia.

B. **PRESENT INVESTIGATION**

(3) The information at the Commission's disposal indicated that certain GOES which typically have a thickness of up to 0,1 mm and due, *inter alia*, to their high electromagnetic efficiency, low weight and low heat development associated with their use possess properties which are not present in other types of GOES. As a result of these characteristics, the use of these products is also considered different and found typically in the aircraft and medical engineering industries. Therefore, it was considered appropriate to review the case as far as the scope of the product is concerned.

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a partial interim review, the Commission, by a notice published in the *Official Journal of the European Union*, initiated a partial interim review in accordance with Article 11(3) of the basic Regulation [4]. The investigation was limited in scope to the definition of the product subject to the measures in force in order to assess the need for amendment of the product scope.

C. **PRODUCT UNDER REVIEW**

(5) The product under review is grain oriented flat-rolled products of silicon-electrical steel, currently classifiable within CN codes 7225 11 00 (of a width of 600 mm or more) and 7226 11 00 (of a width of less than 600 mm). These codes are given only for information.

(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.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ L 223, 27.8.2005, p. 1.
[3] OJ L 223, 27.8.2005, p. 42.
[4] OJ C 254, 20.10.2006, p. 10.

(7) The market is typically divided into high conductivity or high permeability grades and regular grades. The high permeability grades allow achieving lower core losses 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 those 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.

(10) The following companies cooperated in the investigation and provided relevant information to the Commission:

Community producers

— ThyssenKrupp Electrical Steel GmbH, Gelsenkirchen, Germany,

— Orb Electrical Steels Limited — Cogent Power Limited, Newport, United Kingdom,

GOES-producers in the USA

— AK Steel Corporation, Butler, Pennsylvania,

— Allegheny Technologies Incorporated, Pittsburgh, Pennsylvania,

GOES-producers in Russia

— Novolipetski Iron & Steel Corporation (NLMK), Lipetsk,

— VIZ Stal, Ekaterinburg,

Thin GOES-producer in the USA

— Arnold Magnetic Technologies, Marengo, Illinois,

Thin GOES-importer in the Community

— Gebrüder Waasner GmbH, Forchheim, Germany,

Thin GOES-users in the Community

— Gebrüder Waasner GmbH, Forchheim, Germany,

— Sangl GmbH, Erlangen, Germany,

— Vacuumschmelze GmbH, Hanau, Germany.

E. **RESULTS OF THE INVESTIGATION**

1. **Different identity of 'ordinary' versus 'thin' GOES producers**

(11) None of the producers of GOES, which were investigated in the framework of the procedure leading to the imposition of the measures in force, produce GOES of the thickness as targeted by the current product scope investigation.

(12) Neither ThyssenKrupp Electrical Steel GmbH, nor Orb Electrical Steels Limited (Cogent) produce thin GOES and the same situation applies to the US producers, i.e. AK Steel Corporation and Allegheny Technologies Incorporated, and the Russian producers VIZ Stal and NLMK. Consequently, none of these producers had a direct interest and none of them objected to a possible exclusion of thin GOES from the scope of the measures.

(13) The production of thin GOES requires a process of re-rolling, which is performed by specialised companies of which only two are known to the Commission in the countries concerned: the US producer Arnold Magnetic Technologies and the Russian producer Ileko (Asha), of which only the former company cooperated. As indicated in recitals 10 and 11, there is no such production known in the Community.

2. **Product differentiation**

(14) AK Steel Corporation produced thin GOES until 1971, as so-called T-grades. The production process started from fully finished GOES grades (both regular and high permeability), from which the mill coating was removed and where the sheets were re-rolled, re-annealed and re-coated. Specific end-uses were found in the aircraft industry, transformers and a wide variety of electro-technical applications, for which size and the weight of the material is of a decisive importance. It was found that such thin GOES are not interchangeable with other GOES.

(15) It was also examined whether such T-grades consisted of a product which could be distinguished from 'ordinary' GOES on the basis of technical characteristics. It was found that the re-rolling production process (consisting of a cold mechanical stretching and flattening process), with re-annealing and re-coating, fundamentally alters the technical specifications of the product, an observation that is corroborated by the disappearance of the original manufacturers' product guarantee.

(16) It was also found that the physical characteristic of thickness is not limited to 0,10 mm which was the maximal thickness mentioned in the notice of initiation. Most commercially occurring thicknesses are 0,1016 mm and 0,1524 mm which in the USA are commonly referred to as 4 'mil' and 6 'mil'. One 'mil' stands for a thousand of an inch or 0,0254 mm.

(17) The product definition of thin GOES therefore has to be specified as GOES which are re-rolled to a thickness of maximum 0,16 mm, re-annealed and re-coated.

F. **RETROACTIVE APPLICATION**

(18) In view of the above findings that thin GOES have different basic physical and technical characteristics and end-uses than other GOES, it is considered appropriate to exempt imports of GOES of a thickness of maximum 0,16 mm from the anti-dumping measures in force.

(19) Consequently, for goods not covered by Article 1(1) of Regulation (EC) No 1371/2005 as amended by this Regulation, the definitive anti-dumping duties paid or entered in the accounts pursuant to Article 1(1) of Regulation (EC) No 1371/2005 in its initial version should be repaid or remitted.

(20) Repayment or remission must be requested from national customs authorities in accordance with applicable customs legislation.

(21) Since the present review investigation is limited to the clarification of the product and since it was not intended this product type be covered by the original measures, in order to prevent any consequent prejudice to importers of the product, it is considered appropriate that the findings be applied from the date of the entry into force of the definitive Regulation. Moreover, in particular in view of the relatively recent entry into force of the original Regulation and of the expected limited number of requests for refunds, there is no overriding reason not to provide for such retro-active application.

(22) This review does not affect the date on which Regulation (EC) No 1371/2005 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Regulation (EC) No 1371/2005 shall be replaced by the following:

'1. A definitive anti-dumping duty is hereby imposed on imports of grain oriented flat-rolled products of silicon-electrical steel of a thickness of more than 0,16 mm, originating in the United States of America and Russia, falling within CN codes ex 7225 11 00 (products of a width of 600 mm or more) (TARIC code 7225 11 00 10) and ex 7226 11 00 (products of a width of less than 600 mm) (TARIC codes 7226 11 00 11 and 7226 11 00 91).'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 28 August 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 January 2008.

For the Council
The President
D. RUPEL