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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-428-842, A-588-871, A-455-804, A-821-821)

Grain-Oriented Electrical Steel from Germany, Japan, Poland, and the Russian Federation: Preliminary Determinations of Sales at Less Than Fair Value, Certain Affirmative Preliminary Determinations of Critical Circumstances, and Postponement of Russian Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that grain-oriented electrical steel (GOES) from Germany, Japan, Poland, and the Russian Federation (Russia) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013. The estimated dumping margins of sales at LTFV are listed in the “Preliminary Determinations” section of this notice. Interested parties are invited to comment on these preliminary determinations.

EFFECTIVE DATE: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

FOR FURTHER INFORMATION CONTACT: Stephen Banea at (202) 482-0656 (Germany); Steve Bezirgianian at (202) 482-1131 (Japan); Alan Ray at (202) 482-5403 (Poland); or Elizabeth Eastwood at (202) 482-3874 (Russia); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

## SUPPLEMENTARY INFORMATION:

### Background

The Department initiated these investigations on October 24, 2013.<sup>1</sup> For a complete description of the events that followed the initiation of these investigations, see the country-specific memoranda that are dated concurrently with and hereby adopted by this notice (collectively, Preliminary Decision Memoranda).<sup>2</sup> The Preliminary Decision Memoranda are public documents and are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, complete versions of the Preliminary Decision Memoranda can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memoranda and the electronic versions of the Preliminary Decision Memoranda are identical in content.

### Scope of the Investigations

The scope of the investigations covers GOES, which is a flat-rolled alloy steel product containing by weight specific levels of silicon, carbon, and aluminum. For a complete description of the scope of the investigations, see Appendix I to this notice.

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<sup>1</sup> See Grain-Oriented Electrical Steel from the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Initiation of Antidumping Duty Investigations, 78 FR 65283 (Oct. 31, 2013) (Initiation Notice). AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers (collectively, the petitioners) filed the underlying petitions. Id., at 65283.

<sup>2</sup> See memoranda to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled: "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from Germany"; "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from Japan"; "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from Poland" (Poland Preliminary Decision Memorandum); and "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from the Russian Federation" (Russia Preliminary Decision Memorandum).

Various parties submitted comments on the scope. For discussion of these comments, see the Preliminary Decision Memoranda.

### Tolling and Postponement of Deadline for Preliminary Determinations

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the partial closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of these proceedings have been extended by 16 days.<sup>3</sup> If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.<sup>4</sup>

On February 10, 2014, the petitioners made a timely request for a 50-day postponement of the preliminary determinations for these and the other concurrent GOES antidumping duty investigations, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).<sup>5</sup> On February 20, 2014, we postponed the preliminary determinations by 50 days.<sup>6</sup> As a result of the postponement and aforementioned tolling, the revised deadline for the preliminary determinations of these investigations is now May 2, 2014.

### Methodology

The Department conducted these investigations in accordance with section 731 of the Act. The selected mandatory respondents in the Germany, Japan, and Poland investigations

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<sup>3</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013.

<sup>4</sup> See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

<sup>5</sup> See Letter from the petitioners entitled, "Antidumping Investigations of Grain-Oriented Electrical Steel ("GOES") from China, Czech Republic, Germany, Japan, South Korea, Poland, and Russia: Petitioners' Request for Extension of the Preliminary Determination," dated February 10, 2014.

<sup>6</sup> See Grain-Oriented Electrical Steel From the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Postponement of Preliminary Determinations in the Antidumping Duty Investigations, 79 FR 11082 (February 27, 2014).

failed to respond to the Department's questionnaire or otherwise participate in those proceedings. Further, in the Russia investigation, the sole mandatory respondent failed to provide useable cost of production information, as requested in section D of the Department's initial questionnaire and in two supplemental questionnaires. As a result, we preliminarily determined to apply adverse facts available (AFA) to the mandatory respondents in the Germany, Japan, Poland, and Russia investigations, in accordance with section 776 of the Act and 19 CFR 351.308. For a full discussion of the rationale underlying our preliminary determinations, as well as a description of the methodology used, see the Preliminary Decision Memoranda.

#### Certain Affirmative Preliminary Determinations of Critical Circumstances

On February 24, 2014, the petitioners filed timely critical circumstances allegations, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration from Poland and Russia.<sup>7</sup> In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We conducted analyses of critical circumstances for Poland and Russia in accordance with section 733(e) of the Act and 19 CFR 351.206, and preliminarily determined that: (1) importers of GOES from Poland and Russia knew or should have known that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A)(ii) of the Act; and (2)

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<sup>7</sup> See the letter from the petitioners entitled, "Grain-Oriented Electrical {sic} Steel from the Czech Republic, Poland and the Russian Federation – Critical Circumstances Allegation," dated February 24, 2014.

imports of the subject merchandise from Poland and Russia have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. For a full description of the methodology and results of our analysis, see the Poland Preliminary Decision Memorandum and the Russia Preliminary Decision Memorandum.

#### All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or de minimis margins, and any margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, de minimis or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated dumping margin for all other producers or exporters.

We determined the dumping margin for each of the mandatory respondents in the Germany, Japan, Poland, and Russia investigations entirely under section 776 of the Act. Consequently, the only available dumping margins for these preliminary determinations are found in the petition. Pursuant to section 735(c)(5)(B) of the Act, the Department’s practice under these circumstances has been to calculate the all others rate as a simple average of these margins from the petition.<sup>8</sup> For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memoranda.

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<sup>8</sup> See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany, 73 FR 21909, 21912 (April 23, 2008), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan, 73 FR 39673, 39674 (July 10, 2008); Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670, 79671 (December 31, 2013), unchanged in

## Preliminary Determinations

The preliminary dumping margins are as follows:

### Germany

<u>Manufacturer/exporter</u>	<u>Dumping Margin (Percent)</u>
ThyssenKrupp Electrical Steel GmbH	241.91
All Others	133.70

### Japan

<u>Manufacturer/exporter</u>	<u>Dumping Margin (Percent)</u>
JFE Steel Corporation	172.30
Nippon Steel & Sumitomo Metal Corporation	172.30
All Others	93.36

### Poland

<u>Manufacturer/exporter</u>	<u>Dumping Margin (Percent)</u>
Stalprodukt S.A.	99.51
All Others	78.10

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Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476, 14477 (March 14, 2014).

## Russia

Manufacturer/exporter	Dumping Margin (Percent)
OJSC Novoliptesk Steel/VIZ-Steel LLC	119.88
All Others	68.98

## Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary determination within five days of the date of publication of the notice of preliminary determination in the Federal Register, in accordance with 19 CFR 351.224(b). However, because the Department preliminarily applied AFA to each of the mandatory respondents in these investigations in accordance with section 776 of the Act, there are no calculations to disclose.

## Public Comment

Interested parties are invited to comment on these preliminary determinations. Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of the preliminary determinations.<sup>9</sup> Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.<sup>10</sup> A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department.<sup>11</sup> Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determinations must file briefs electronically using IA ACCESS.

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<sup>9</sup> See 19 CFR 351.309(c)(1)(i).

<sup>10</sup> See 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2).

<sup>11</sup> See 19 CFR 351.309(c)(2).

An electronically filed document must be received successfully in its entirety by, IA ACCESS, by 5 p.m. Eastern Standard Time on the date the document is due.

In accordance with section 774 of the Act, the Department will hold a hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party.<sup>12</sup> Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically-filed request must be received successfully in its entirety by IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.<sup>13</sup> Requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.<sup>14</sup> If a request for a hearing is made, we will inform parties of the scheduled date and time for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.<sup>15</sup> Parties should confirm by telephone the date, time, and location of the hearing.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Germany and Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. Further, because we preliminarily found that critical circumstances exist in the Poland and Russia investigations with regard to the mandatory

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<sup>12</sup> See also 19 CFR 351.310.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

respondents and companies receiving the “all others” rate, we will instruct CBP to suspend liquidation of covered entries from Poland and Russia entered, or withdrawn from warehouse for consumption up to 90 days prior to the date of publication of this notice in the Federal Register.<sup>16</sup>

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits<sup>17</sup> equal to the dumping margins, as indicated in the chart above, as follows: (1) the rate for the mandatory respondents listed above will be the respondent-specific rate we determined in these preliminary determinations; (2) if the exporter is not a mandatory respondent identified above in one of these investigations, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the country-specific all others rate. These suspension of liquidation instructions will remain in effect until further notice.

#### Postponement of Russian Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

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<sup>16</sup> See section 733(e)(2) of the Act.

<sup>17</sup> See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

Respondent OJSC Novolipetsk Steel/VIZ-Steel LLC (NLMK) requested that, in the event of an affirmative preliminary determination in the Russia investigation, the Department postpone its final determination by 60 days (i.e., to 135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.<sup>18</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination for Russia is affirmative; (2) the requesting producer or exporter accounts for a significant proportion of exports of the subject merchandise from Russia; and (3) no compelling reasons for denial exist, we are postponing the final determination in the Russia investigation until no later than 135 days after the publication of this notice in the Federal Register and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination in the Russia investigation no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.<sup>19</sup>

#### International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determinations of sales at LTFV. If our final determinations in these investigations are affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of GOES from Germany, Japan, Poland, and Russia before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations.

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<sup>18</sup> See letter from NLMK entitled, “Grain-Oriented Electrical Steel from Russia: Request for Postponement of Final Determination and to Extend Provisional Measures,” dated April 30, 2014.

<sup>19</sup> See 19 CFR 351.210(b)(2) and (e).

These determinations are issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

Dated: May 2, 2014.

## Appendix I – Scope of the Investigations

The scope of these investigations covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to these investigations is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (i.e., laminations).

## Appendix II – List of Topics Discussed in the Preliminary Decision Memoranda

1. Summary
2. Background
3. Period of Investigation
4. Scope of the Investigation
5. Scope Comments
6. Product Comparisons
7. Respondent Selection
8. Application of Facts Available and Use of Adverse Inference
9. Corroboration of Secondary Information
10. All Others Rate
11. Critical Circumstances (**Poland and Russia only**)
12. Conclusion

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