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PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
OF THE
U.S. DEPARTMENT OF COMMERCE
AND THE
U.S. INTERNATIONAL TRADE COMMISSION

ANTIDUMPING DUTY PETITION

VOLUME II
THE PEOPLE'S REPUBLIC OF CHINA AD

GRAIN-ORIENTED ELECTRICAL STEEL FROM
THE PEOPLE'S REPUBLIC OF CHINA, THE CZECH REPUBLIC,
THE FEDERAL REPUBLIC OF GERMANY, JAPAN,
THE REPUBLIC OF KOREA, POLAND, AND THE RUSSIAN FEDERATION

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AND THE UNITED STEELWORKERS

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I. GRAIN-ORIENTED ELECTRICAL STEEL FROM THE PEOPLE'S REPUBLIC OF CHINA IS BEING SOLD OR OFFERED FOR SALE AT LESS THAN FAIR VALUE**A. Producer: Baosteel**

Based on information reasonably available to Petitioners, grain-oriented electrical steel (“GOES”) from the People’s Republic of China (“China”) is being sold or offered for sale at less than fair value in the United States. To the best of Petitioners’ knowledge, the subject merchandise from China was manufactured by Baoshan Iron & Steel Co., Ltd., a subsidiary of the Baosteel Group, which is controlled by the Shanghai Baosteel Group Corporation (collectively “Baosteel”). A description of the company and its products is appended to this petition. See AD Exhibit C-1. In addition, Petitioners understand that GOES is manufactured in China by: Anshan Iron & Steel Group Corporation; Hebei Shougang Qian'an Iron & Steel Co., Ltd.; and Wuhan Iron & Steel Co. Ltd. See General Exhibit 3.

To the best of Petitioners’ knowledge, Baosteel’s sale of GOES in the United States was made through its affiliate, Baosteel America. See AD Exhibit C-1. Both Baosteel and Baosteel America are part of Baosteel Group and are, therefore, affiliated persons within the meaning of 19 U.S.C. § 1677(33)(F).

1. China Is a Non-Market Economy

The Department has identified China as a non-market economy (“NME”) as recently as September 16, 2013,¹ and has not since that time published any notice of a determination that China is a market economy. See 19 U.S.C. § 1677(18)(C). As China remains an NME country, sales or offers for sale of such or similar merchandise in China or from China to third countries

¹ See Honey From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012, 78 Fed. Reg. 56,860 (Dep’t Commerce Sept. 16, 2013).

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do not permit calculation of normal value under section 773(a) of the Act (19 U.S.C. § 1677b(c)(1)) or under 19 C.F.R. § 351.408. In accordance with the Department's practice, therefore, Petitioners have calculated normal value by valuing the factors of production for production for GOES, based on values in a market economy that has a level of economic development that is comparable to China.

2. Thailand Is the Appropriate Surrogate Economy Country

For purposes of this petition, Petitioners have used Thailand as the appropriate surrogate country for valuing Chinese factors of production for GOES because: (1) Thailand is at a level of economic development that is comparable to China;² (2) Thailand is a significant producer of comparable merchandise;³ and (3) public information from Thailand is available to value all material input factors. Accordingly, for the above reasons, Thailand is the appropriate surrogate country for this investigation.

B. U.S. Price

Petitioners obtained a U.S. price for a sale of GOES from China from a confidential source. See AD Exhibit C-2. The U.S. sale at issue involved GOES with the following product characteristics: [] See id. A CEP price was the basis for

² Based on data for 2011 reported in the World Bank's World Development Indicators database, the Department has recently found Thailand (with a per capita GNI of \$4,440) to be economically comparable to China (with a per capita GNI of \$4,940). See Memorandum to Scot T. Fullerton, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Polyester Staple Fiber ("PSF") from the People's Republic of China ("China")," Aug. 15, 2013.

³ As discussed below in section I.C.5., Petitioners have relied on the unconsolidated 2012-2013 financial statements of Tata Steel, a vertically integrated producer of a wide variety of steel products in India, to calculate surrogate financial ratios. Petitioners have relied on the financial statements of Tata Steel because they were unable to identify publicly available financial statements for a vertically integrated steel producer in Thailand that conducts its operations in a manner comparable to those of Baosteel, and/or were not profitable.

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U.S. price because, to the best of Petitioners' knowledge, the sales of GOES are facilitated by Baosteel's affiliated sales agency, Baosteel America, which is located at:

Baosteel America
85 Chestnut Ridge Rd.
Montvale, New Jersey 07645
Tel: 201-307-3355
Fax: 201-307-3358
E-mail: bia@baosteelusa.com

See id.

The net U.S. price was calculated by subtracting from the offered, [] U.S. price, U.S. inland freight (**AD Exhibit C-4**), U.S. inland insurance (**AD Exhibit C-5**), U.S. brokerage and handling (**AD Exhibit C-6**), international freight (**AD Exhibit C-7**), international insurance (**AD Exhibit C-8**), foreign brokerage and handling (**AD Exhibit C-9**), foreign inland freight (**AD Exhibit C-10**), U.S. import duty (**General EXHIBIT-1** (excerpts from the Harmonized Tariff Schedule of the United States)), and U.S. merchandise processing and harbor maintenance fees, pursuant to 19 U.S.C. § 1677a(c)(2) (**General EXHIBIT-13** (19 C.F.R. §§ 24.23(b)(1)(A) and 24.24(a))).

1. U.S. Inland Freight

Petitioners estimated U.S. inland freight charges from the port to the customer by calculating a distance, using Google Maps, from the closest most commonly used port for imports of GOES as reported by the Port Import-Export Reporting Service ("PIERS") to the U.S. customer's location. See AD Exhibit C-4. Petitioners calculated freight costs for that distance using the U.S. inland freight rate published by freightrateindex.com. See id. Petitioners deducted the U.S. inland freight charges from the quoted U.S. price. See AD Exhibit C-11.

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2. U.S. Inland Insurance

Petitioners calculated U.S. inland insurance costs by using the steel-specific premium rate published by P.A.F. Cargo Insurance for goods shipped by land. See AD Exhibit C-5. Petitioners converted this to a charge per pound and deducted the U.S. inland insurance charges from the quoted U.S. price. See AD Exhibit C-12.

3. Ocean Freight

Petitioners estimated ocean freight costs by deducting the cost of shipment for iron and steel products published by MAERSK, a major ocean freight carrier, for a full 40-foot container load of steel products. See AD Exhibit C-7. Petitioners converted this to a charge per pound and deducted the international ocean freight charges from the U.S. transaction price. See AD Exhibit C-12.

4. Marine Insurance

Petitioners calculated marine insurance costs by using the steel-specific premium rate published by P.A.F. Cargo Insurance for goods shipped by ocean freight. See AD Exhibit C-8. Petitioners converted this to a charge per pound and deducted the marine insurance charges from the U.S. price. See AD Exhibit C-12.

5. U.S. Duties and Port Fees

Petitioners deducted port fees from the U.S. price. Imports of GOES enter the United States duty free. See General EXHIBIT-1 (excerpts from the Harmonized Tariff Schedule of the United States). Port fees included a 0.125 percent harbor maintenance fee and a 0.21 percent merchandise processing fee. See General EXHIBIT-13 (19 C.F.R. §§ 24.23(b)(1)(A) and 24.24(a)). These fees were applied on an ad valorem basis to the U.S. dutiable value. Therefore, Petitioners calculated port fees based on the following formula: Duty and Customs Fees = (0.0

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+ 0.00335) * (Delivered Price – U.S. Freight – U.S. Insurance – U.S. Brokerage – Ocean Freight – Marine Insurance) / (1+ 0.0 +.00335).

Petitioners then deducted the customs fees, calculated on a per pound basis, from the U.S. transaction price. See AD Exhibit C-12.

6. Foreign Inland Freight and Brokerage

Petitioners deducted foreign inland freight charges from the factory to the foreign port and deducted foreign brokerage and handling charges at the foreign port. See AD Exhibits C-9, C-10, and C-12.

7. U.S. Indirect Selling Expenses

Because Baosteel made the U.S. sale through its affiliated importer, Baosteel America, Petitioners deducted a markup for the affiliate's sales efforts pursuant to section 772(d) of the Act (19 U.S.C. § 1677a(d)) and 19 C.F.R. § 351.402. To be conservative, Petitioners made no adjustment for U.S. inventory carrying costs. Baosteel America is not a public company, and its actual data are not available to Petitioners. As an arm's-length surrogate, Petitioners used the publicly available U.S. indirect selling expense of 4.55 percent for the affiliated importers of European steel mills that was relied on in the initiation of the anti-dumping investigation on Stainless Steel Bars from Germany.⁴ See AD Exhibit C-11. Petitioners, therefore, deducted 4.6 percent of the U.S. sales price charged by Baosteel America when it offered and sold Baosteel's products in the United States. See AD Exhibit C-12.

⁴ See Notice of Initiation of Antidumping Duty Investigations: Stainless Steel Bar From France, Germany, Italy, Korea, Taiwan, and the United Kingdom, 66 Fed. Reg. 7,620, 7,622 (Jan. 24, 2001).

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C. Normal Value**1. Factors of Production and Surrogate Values**

Petitioners do not have access to Baosteel's actual cost of manufacturing. As the best information reasonably available to Petitioners, this petition relies on the U.S. producers' direct material consumption of raw material inputs, labor usage, and energy consumption, adjusted for known differences, as an estimate of Baosteel's factors of production. Petitioners then valued those input costs in Thailand, as the surrogate market. See AD Exhibit C-14. Factory overhead, SG&A expenses, and profit are based on the financial results of a surrogate producer of GOES in India. Where it was necessary to rely on data from a period preceding the period of investigation,⁵ in accordance with the Department's practice, Petitioners inflated such values to reflect current prices using the CPI data for Thailand published by the International Monetary Fund. See AD Exhibit C-3B.

2. Direct Materials

Petitioners calculated the Chinese producer's market economy value for direct materials by using the average CIF import value at the Thai port of entry of such direct materials imported into Thailand for the period January 2013 to June 2013. See AD Exhibit C-13. Petitioners added to this value the average Thai brokerage and inland freight charges reported for importing goods into Thailand in *Doing Business 2013: Thailand*, published by the World Bank. See AD Exhibits C-9, C-10, and C-14.

⁵ Consistent with the Department's practice in cases against China, Petitioners have treated the six months prior to the month in which the petition has been filed as the period of investigation, and applied as much information as is available at this time pertaining to that period.

PUBLIC VERSION**3. Energy**

Petitioners relied on publicly-available information to value electricity and natural gas in Thailand. In the most recent year in which data are available, 2012, the electricity rate for “industry” in Thailand was Baht 3.284 per kilowatt-hour, as reported by Electricity Generating Authority of Thailand. See AD Exhibit C-15. Using the average Baht/US\$ exchange rate during the POI, Petitioners calculated an electricity cost of US\$ 0.1082 per kilowatt-hour. See AD Exhibits C-3A and C-15.⁶ Petitioners multiplied that value by the kilowatt hours of electricity consumed by U.S. producers producing GOES to arrive at an electricity cost per metric ton of output to assign to Baosteel. See AD Exhibit C-19.

Thailand’s cost for natural gas for the period January to June 2013, as reflected in Thai import statistics published by the Global Trade Atlas was US\$ 0.88 per kilogram of liquefied natural gas. Using universal conversion factors,⁷ Petitioners converted that weight-based cost to a volume-based cost of \$17.9683 per thousand cubic feet of natural gas. See AD Exhibit C-16. Petitioners applied that rate to the volume of natural gas consumed by U.S. producers to arrive at a natural gas surrogate cost per metric ton of output to assign the Baosteel. See AD Exhibit C-19.

⁶ The Department’s policy is not to adjust such energy tariffs for inflation if those tariffs are likely still in force. See Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Antidumping Duty Administrative Review, 2010-2011, 77 Fed. Reg. 61,385 (Dep’t Commerce Oct. 9, 2012).

⁷ The universal conversion factors are published by Chemlink Pty Ltd. at www.chemlink.com.au. This is the same methodology as the Department used in the ongoing antidumping investigation of PC Tie Wire from China.

PUBLIC VERSION**4. Labor**

Petitioners valued labor using information published by the Thailand National Statistics Office (“NSO”) industrial survey (labor, 2007). See AD Exhibit C-17. In 2006, the most recent year for which data are available for Thailand, the Thai wage rate for the manufacture of basic iron and steel industry was reported as Baht 137,844.23 per month, or Baht 59.8282 per hour. See id. Petitioners adjusted this value for inflation to Baht 72.216 per hour in the POI. See AD Exhibits C-17 and C-3A. Using the average exchange rate in the POI, Petitioners calculated a rate of US\$ 2.43 per hour. See AD Exhibits C-17 and C-3A. Petitioners calculated Baosteel’s cost of labor (wages and benefits) by applying that rate to the labor hours expended by U.S. producers. See AD Exhibit C-19.

5. Calculation of Financial Ratios to Calculate Constructed Cost

Petitioners used the 2012-2013 financial statements of Indian vertically integrated steel producer Tata to calculate surrogate financial ratios. Several factors support the Petitioners’ reliance on the most recent financial statements issued by Tata to calculate surrogate financial ratios. First, Petitioners have been unable to locate any publicly available financial statements for a vertically integrated steel producer with operations comparable to Baosteel in Thailand. Like Baosteel, Tata is a vertically integrated steel producer and, thus, its operations and experiences are an appropriate surrogate. Second, Tata’s operations earned a profit in 2012-2013. While Petitioners were able to identify several Thai companies in the steel industry (none of which conducts highly vertically integrated operations), none of those companies was profitable in 2012. Third, Tata has issued an unconsolidated financial statement that reflects predominantly, if not overwhelmingly, its returns on steel manufacturing operations. Fourth, Tata’s unconsolidated financial statement is prepared at a level of detail that permits recognition

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of energy costs to prevent double-counting with factors. For these reasons, Tata's 2012-2013 unconsolidated financial statements are the best available source to calculate surrogate financial ratios.

Petitioners calculated factory overhead as a percentage of direct material, labor, and energy. The overhead ratio, the SG&A ratio, and the profit ratio are based on the financial data from Tata's 2012-2013 unconsolidated financial statements. Each income and expense line item on the Profit and Loss Statement was properly classified as either raw materials, labor, energy, manufacturing overhead, purchased goods, and selling, general and administrative costs. Based on this data, the ratios were calculated in the manner consistent with Department practice. See AD Exhibit C-18. Consistent with that methodology, Petitioners calculated the surrogate manufacturing overhead for Baosteel as its factory depreciation, plus maintenance and repair expenses, divided by COGS without factory depreciation and maintenance/repair costs. Petitioners then applied the calculated ratio of factory overhead to COGS (without factory depreciation and maintenance/repair costs) to the sum of materials, labor, and energy calculated for Baosteel, above, to calculate the cost of manufacture ("COM"). See AD Exhibit C-18.

Petitioners used Tata's 2012-2013 unconsolidated financial statements to calculate selling, general and administrative ("SG&A") expenses, inclusive of net financial expenses, as a percentage of its COM. See AD Exhibit C-18. This ratio was applied to the COM calculated for Baosteel, above, to derive a cost of production ("COP"). See AD Exhibit C-18.

Finally, Petitioners used Tata's 2012-2013 unconsolidated financial statements to calculate profit before taxes as a percentage of COP. See AD Exhibit C-18. This ratio was applied to the COP calculated for Baosteel, above, resulting in a constructed normal value. See AD Exhibit C-18.

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D. Margin

A comparison of the normal value to the U.S. net selling price results in a dumping margin of **168.47** percent. The dumping margin calculation is provided at **AD Exhibit C-20**.