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BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE UNITED STATES INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF **NON-ORIENTED ELECTRICAL STEEL FROM CHINA, GERMANY, JAPAN, KOREA, SWEDEN, AND TAIWAN**	**PETITIONS FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES** **VOLUME III: GERMANY DUMPING ALLEGATION**

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I. ALLEGATION OF SALES AT LESS THAN FAIR VALUE

This petition seeks the imposition of antidumping duties on imports of NOES from Germany. As discussed below, German producers and exporters have sold, or offered for sale, NOES in the United States for less than fair value. Accordingly, Petitioner requests that the Department initiate an investigation into whether sales are made in the United States at less than fair value. The general information required by Section 351.202 of the Department's regulations is provided in Volume I of this petition.

II. GERMAN PRODUCERS AND EXPORTERS OF NOES

A. Description Of The German Industry

NOES is manufactured in Germany by ThyssenKrupp Steel Europe AG and ThyssenKrupp Electrical Steel GmbH (collectively "ThyssenKrupp"). The names and contact information for ThyssenKrupp and other potential producers/exporters of NOES in Germany are listed in Volume I: General Issues And Injury at Exhibit I-2. The information provided in that exhibit is the information reasonably available to Petitioner. Petitioner believes that merchandise produced by these companies accounts for virtually all U.S. imports of NOES from Germany during the presumptive POI of July 1, 2012 through June 30, 2013.

B. Production Processes Of ThyssenKrupp

ThyssenKrupp is a fully integrated producer, beginning the production of NOES with iron produced from the blast furnace method, converting the iron to steel in a basic oxygen furnace, and refining the steel prior to continuously casting steel slabs with the required High-Silicon Low-Carbon chemistry used in NOES. The slabs are subsequently hot-rolled into steel coil, and then further cold-rolled. As with other NOES producers, the methods used in the cold-rolling process and controlled annealing processes result in products with the unique electrical characteristics of non-oriented electrical steel. **Exhibit III-1** contains additional information about ThyssenKrupp's production process.

C. Known Importers Of German NOES

A complete list of known U.S. importers of German-manufactured NOES is contained in Volume I: General Issues And Injury at Exhibit I-3.

III. DUMPING MARGIN METHODOLOGY

A. Normal Value

Petitioner was unable to obtain any German pricing information for NOES products. *See* **Exhibit III- 2**. Therefore, normal value was determined based upon constructed value. Petitioner does not have access to the German producers' factor inputs or factor consumption rates in order to determine their costs in Germany. Accordingly, Petitioner relied on AK Steel's actual direct material consumption of raw material inputs, labor usage, and energy consumption as an estimate of the German producers' factors of production. Petitioner then valued those factor inputs using German import statistics and other information from Germany. *See* **Exhibit III-3**. This exhibit also contains a declaration by AK Steel's cost accountant as to the source of the data provided. Factory overhead is a hybrid estimate based partially on AK Steel's production experience and partially on the German producers' experience and is described more fully below. SG&A expenses and profit are based on ThyssenKrupp's experience as reported in its financial statements. Where it was necessary to rely on data from a period preceding the POI, Petitioner inflated such values to reflect current prices using price index data for Germany. *See* **Exhibit III-4**.

1. Direct materials and scrap

Petitioner calculated the German producers' cost of direct materials and scrap by using the average CIF import value of these materials at the German port, imported into Germany for the period July 2012 through June 2013. Consistent with Department practice, Petitioner excluded imports from non-market economies, countries with generally-available export subsidies, and unspecified countries. See **Exhibit III-5**. Petitioner added to this value the

average German brokerage and handling reported for importing goods into Germany in *Doing Business 2013: Germany*, published by the World Bank. See **Exhibit III-6**. There are a number of other small material inputs and supplies in the cost model that represent a small portion of AK Steel's total actual costs. Because ThyssenKrupp's financial statements do not disaggregate this type of factory overhead cost, the petition uses AK Steel's costs as the best information reasonably available to Petitioner.

2. Labor

Petitioner valued labor using information published by the U.S. Bureau of Labor Statistics, *International Labor Comparisons: International Comparisons of Hourly Compensation Costs in Manufacturing Industries, by Industry, 2008-2012*. According to these data, in 2012, the German hourly compensation costs for the manufacture of basic metals (ISIC 24) was US$ 48.14/hour. *See* **Exhibit III-7**. Petitioner calculated the German producers' cost of labor (wages and benefits) by inflating this value to the POI using the German CPI. The resulting labor rate is US$ 48.51/hour. *Id.*

3. Energy and utilities

Petitioner relied upon publicly available information to value electricity and natural gas in Germany. The average rate for electricity for industrial uses, as reported in the latest available edition of *Energy Prices & Taxes,* published by the International Energy Agency ("EIA") for 2012, was 115.70 Euro per 1,000 kilowatt-hour (or Euro 0.1157 per kilowatt hour or US$ 0.1505 per kilowatt hour after converting to U.S. dollars). *See* **Exhibit III-8**. Petitioner used the same EIA publication to value natural gas. The latest available data from Germany, for the year 2012, was Euro 39.71 per mWH GCV. Petitioner converted this amount to Euro/mmBTU and then to US$/mmBTU using universal conversion factors. Petitioner then adjusted this value to a POI value of US$ 15.146/mmBTU. *See* Exhibit III-8.

4. Factory overhead, SG&A, and profit

Petitioner used ThyssenKrupp's consolidated financial statements for the period ending September 30, 2012 to calculate financial ratios. As noted above, the German financial statements are not disaggregated to a level where factory overhead can be calculated as a percentage of direct material, labor, and energy. Petitioner calculated depreciation as a percentage of direct material, labor, and energy and used Petitioner's own costs for the remainder of factory overhead costs. The SG&A and profit ratios were calculated according to the Department's normal practice. *See* **Exhibit III-9** for the financial ratio calculation worksheet and copies of ThyssenKrupp's audited financial statements as excerpted from their annual report.

Petitioner believes that the information provided in ThyssenKrupp's consolidated financial statements is the proper basis for deriving financial ratios because its steel operations account for the majority of the financial data. The segment reporting information at page 178 of the financial statements shows that 41.1 percent (or €19,352 million) of the group's total sales revenues are derived from steel related activities (*i.e.*, Steel Europe, Steel Americas and Stainless Global). Also, an additional €13,165 million in materials and services reflect the degree of vertical integration whereby ThyssenKrupp is able to provide steel related inputs and services externally as well as internally. Thus, €32,517 million (or 69.1 percent) of total consolidated revenue relates directly or indirectly to steel production. For a company with such significant vertical integration, the consolidated statements are highly representative of steel making. Petitioner is not aware of any other publicly available financial statement that is more representative of steel operations in Germany. Accordingly, ThyssenKrupp's consolidated financial statement is the best information reasonably available to Petitioner.

5. Packing inputs

The packing costs reflected in the cost model are conservative in that they relate to domestic shipments. Petitioner valued the labor associated with packing using the surrogate

labor rate, as described in the direct materials section, above. There are a number of other small packing material inputs and supplies in the cost models that represent a very small portion of AK Steel's total actual costs. As discussed above with respect to adjustments to ex-factory prices, the packaging materials used by both German producers for exports are more elaborate and undoubtedly more costly than those used by AK Steel in its domestic shipments. To the extent that German packaging is more elaborate than AK Steel's, constructed value is understated.

IV. EXPORT PRICE

A. Export Price Based On Ship Manifest Data And Official U.S. Import Statistics

U.S. Customs and Border Protection's Automated Manifest System ("AMS") contains detailed information regarding goods that arrive at U.S. ports. These data include the name of the shipper, consignee, date of arrival, port of departure, port of arrival, gross weight of the shipments, descriptions of the merchandise, and marks and numbers appearing on the outer packaging of the merchandise. Petitioner queried this data to identify shipments of NOES entering the United States. Official U.S. Customs import statistics do not contain these details in publicly available form. The data can, however, be disaggregated by country, HTS sub-classification, month of entry, district of unlading, and district of entry.

Petitioner determined whether individual entries of products could be matched so as to align the names of specific shippers, consignees, products, shipment quantities, and actual import prices for specific shipments. Petitioner was able to identify one shipment of NOES from Germany where the quantities of the shipments and port of unlading matched exactly. Petitioner then linked the names of the buyer and seller, a specific product, and the actual FOB Foreign Port price charged to the U.S. buyer. **Exhibit III-10** contains a summary of the results and copies of the relevant data output from the data sets. The shipper was ThyssenKrupp. The

product shipped was manufactured by ThyssenKrupp as identified by the marks and numbers on the packages.

The per unit customs value was adjusted to an ex-factory price by deducting costs incurred between the production facility and the foreign port of export. Specifically, Petitioner estimated the foreign brokerage and handing and inland freight costs incurred from ThyssenKrupp's factory to the foreign port using cost information published by the World Bank. *See* Exhibit III-6 (containing the calculation worksheet, excerpts from the World Bank Trading Across Borders publication, and estimated shipping distance information). These price adjustments are reflected in the margin calculation worksheet discussed below.

B. Export Price Based On Average POI Customs Value For NOES

As an additional measure of export price, Petitioner calculated the weighted-average POI Customs Value (i.e., FOB Foreign Port Value) for all NOES products entered from Germany during the POI. These data were obtained directly from the official U.S. import statistics and are contained in **Exhibit III-11**.

V. DUMPING MARGINS

A. Comparison of Ship Manifest And Official Import Data Analysis Derived Price To Constructed Value Of Lowest Cost NOES Product Manufactured By AK Steel

Using the FOP cost model discussed above, compared to the pricing data derived from the ship manifest and official import data analysis, Petitioner calculated a dumping margin of 70.05 percent. *See* **Exhibit III-12**. NOES covers a range of products with widely differing sales prices. By using the input factors and costs related to AK Steel's least costly product, Petitioner calculated a conservative dumping margin. The constructed value calculation is contained in Exhibit III-3.

B. Comparison Of Average Customs Value For U.S. Imports Of German NOES To The Constructed Value Of The Lowest Cost NOES Product Produced By AK Steel

Similar to the above, Petitioner compared the weighted-average Customs Value for all U.S. imports of German-produced NOES during the POI to the calculated constructed value of the least costly NOES product manufactured by AK Steel. The constructed value calculation is contained in Exhibit III-3. The calculation of the resulting 87.04 percent dumping margin is contained in Exhibit III-12.

VI. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioner alleges that imports of NOES from Germany sold at less than fair value are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the Commission in Volume I of this petition.

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, German producers and exporters are selling NOES for less than fair value in the United States. Accordingly, Petitioner requests that the Department initiate an antidumping duty investigation on NOES from Germany.