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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS414]

WTO Dispute Settlement Proceeding Regarding China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States – Recourse by the United States to Article 21.5 of the DSU

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on February 13, 2014, the United States requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* with the People’s Republic of China (“China”) concerning China’s continuing imposition of anti-dumping and countervailing duties on grain oriented flat-rolled electrical steel from the United States. That request may be found at www.wto.org in a document designated as WT/DS414/16. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 31, 2014, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, docket number USTR-2014-0006.

If you are unable to provide submissions at www.regulations.gov, please contact Sandy

McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Joseph H. Rieras, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: Section 127(b)(1) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a World Trade Organization (“WTO”) dispute settlement panel. Pursuant to this provision, USTR is providing notice that the United States has requested a panel pursuant to Article 21.5 of the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). Once it is established, the panel will hold its meeting in Geneva, Switzerland, and could issue a report on its findings within nine months after its establishment.

Major Issues Raised by the United States

On November 16, 2012, the WTO Dispute Settlement Body (“DSB”) adopted its recommendations and rulings in the dispute *China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States* (“China – GOES”) (DS414). The DSB found that China imposed antidumping and countervailing duties on U.S. exports of grain oriented flat-rolled electrical steel (“GOES”) in a manner that breached China’s

obligations under the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (“AD Agreement”) and the *Agreement on Subsidies and Countervailing Measures* (“SCM Agreement”). The DSB recommended that China bring its measures into conformity with its obligations under these Agreements.

On November 30, 2012, China announced its intention to implement the DSB’s recommendations and rulings in this dispute and stated that it would need a reasonable period of time in which to do so. On May 3, 2013, the arbitrator appointed under Article 21.3(c) of the DSU issued an Award providing China eight months and 15 days to implement the DSB’s recommendations and rulings, expiring on July 31, 2013. On July 31, 2013, China issued a re-determination in relation to the duties at issue in this dispute, as set forth in China’s Ministry of Commerce (MOFCOM) Public Notice [2013] No. 51, including its annexes. This re-determination continues the imposition of antidumping and countervailing duties on imports of GOES from the United States.

The United States considers that China has failed to bring its measures into conformity with the covered agreements. As there is “disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings” of the DSB, the United States is seeking recourse to Article 21.5 of the DSU. Specifically, the United States considers that China’s measures continuing to impose antidumping and countervailing duties on GOES from the United States, as set forth in MOFCOM Public Notice [2013] No. 51, including its annexes, and in MOFCOM Public Notice No. 21 [2010], including its annexes, are inconsistent with Articles 1, 3.1, 3.2, 3.4, 3.5, 6.9, 12.2, and 12.2.2 of the AD Agreement;

Articles 10, 12.8, 15.1, 15.2, 15.4, 15.5, 22.3, and 22.5 of the SCM Agreement; and Article VI of the *General Agreement on Tariffs and Trade 1994* (“GATT 1994”).

Although the parties agreed that consultations were not required under the DSU, on January 13, 2014, the United States requested consultations with China consistent with the parties’ understanding on procedures under Articles 21 and 22 of the DSU. That request may be found at www.wto.org contained in a document designated as WT/DS414/15.

The United States and China held consultations on January 24, 2014, but the consultations did not resolve the matter.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov docket number USTR-2014-0006. If you are unable to provide submissions at www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2014-0006 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Comment Now!” (For further information on using the www.regulations.gov website,

please consult the resources provided on the website by clicking on “How to Use Regulations.gov Site” on the bottom of the page.)

The www.regulations.gov site provides the option of providing comments by filling in a “Type Comments” field, or by attaching a document using an “Upload File” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information contained in a comment that he/she submitted be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with Section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE”

at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. § 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public at www.regulations.gov, docket number USTR-2014-0006.

The public file will include non-confidential comments received by USTR from the public with respect to the dispute. The following documents will be made available to the public at www.ustr.gov: the U.S. submissions, any non-confidential summaries or submissions received from other participants in the dispute. The report of the panel in this proceeding, and, if applicable, the report of the Appellate Body, will be available on the website of the WTO, at www.wto.org. Comments open to public inspection may be viewed on the www.regulations.gov website.

Juan Millan,
Assistant United States Trade Representative
for Monitoring and Enforcement

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