The European Association of the Electricity Transmission and Distribution Equipment and Services Industry

Brussels, 10 September 2015

T&D Europe Position Paper

On the European Commission Anti-dumping proceeding concerning the imports of grain-oriented flat-rolled products of electrical steel (GOES) originating in the People's Republic of China, Japan, the Republic of Korea, Russian Federation and the United States of America.

Based on the
Final disclosure document of the European Commission dated 1 September 2015

General comments on the Commission's findings and conclusions

T&D Europe, the European Association of the Electricity Transmission and Distribution Equipment and Services Industry, is disappointed by the General Disclosure Document on the antidumping proceeding AD608 as presented by the European Commission to all stakeholders on 1 September 2015. The measures proposed by the European Commission in the final disclosure are not a balanced outcome. The concept of setting minimum import prices (MiP) for all GOES imports from China, Japan, Korea, Russia and the USA fails to ensure that the European Transformer industry has an adequate supply in quality and quantity, and at competitive pricing of the GOES needed for the transformer production in the EU.

The European Transformer industry represented by T&D Europe stands united against the proposed measures, which are both unnecessary and disproportionate; our comments are based on the evidence provided and are in line with the positions presented in the T&D Europe position paper of 11 June 2015 and at both hearings on 13 March and 3 July 2015.

There is no remaining injury to remedy

The European Commission introduces its disclosure on the assumption that "the Union industry is still in an injurious situation, even taking into account the price increases post-IP", citing an average profitability of 1.1% for the GOES industry during the period January-May 2015.

However, even if the average profit determined by the Commission for the period January - May 2015 was indeed of only 1, 1% (a figure that T&D is unable to confirm), the fact remains that prices have been increasing so dramatically over this period that most certainly already as of March or April 2015, the average profit ratio of the Union Industry would be significantly higher, likely already comfortably exceeding the 5% mark deemed by the Commission to constitute a sustainable profit margin. The Commission has acknowledged that the GOES prices have increased by 30-50% and are likely to increase further in the second half of the year. At the same time, the input costs of the GOES industry, including iron ore and coal, have been decreasing.

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The dramatic price increase - and corresponding profit margin hikes - that the Commission was able to verify for the period up to May on the basis of actual sales, did not stop there. T&D and its members gave conclusive evidence that the Commission equally verified of significant additional price increases for the second half of 2015. It inevitably follows from this data that the EU GOES producers are continuing to sell at very substantial margins that are much higher than the 1% average allegedly determined by the Commission for the first 5 months of the year.

With EU producers running at full speed and barely being able follow the demand, profit margins are growing steadily and there is no sign anywhere in the near or mid-term future that they will slow down.

On the basis of this information, it is untenable to suggest that the EU GOES industry is still facing in an injurious situation in September 2015. Alleging that there can only be certainty with regard to the January-May numbers on the basis of the scope of the Commission's post-IP verification, and in addition not base the conclusion on the most recent month verified, would amount to a highly partial interpretation of the data in the steel industry's favour. This is particularly disconcerting in light of the reliance on inaccurate data from the steel industry in the Provisional Regulation.

The significant insufficiency of EU supply on high-grade GOES confirmed

The European Commission has now concluded that the EU GOES industry's assertions on its ability to serve the EU Transformer needs were inaccurate. Thus, the Commission concludes that there is neither the sufficient quality nor the sufficient quantity in the EU required to meet the EU Transformer industry's needs to remain competitive and to meet the energy efficiency goals of the EU. However, the proposal of introducing minimum import prices on all grades is not in line with this fact-based conclusion.

Concluding that there is a significant shortage of the highest grades of GOES in the EU confirms that the EU transformer industry is dependent on considerable imports of high-grade GOES for many years ahead. At the same time, it is confirmed that the domestic EU supply of high-grade GOES is much more limited than what has been alleged. In this scenario, and despite the insistence on exclusion by large parts of the transformer industry, the Commission has chosen not only to include these higher grades in the suggested measures, but also to adjust its approach to injury calculation so that the level of protection against high-grade imports is significantly higher than in the provisional measures.

The Commission's MiP proposal

Just like ad valorem duties, minimum prices create a market distortion. They risk decoupling the price levels in the EU from the GOES world market prices. However, if minimum prices are introduced on products that can barely be supplied in the EU, the distortion is much more severe. Although one may argue that intra-EU price competition on the standard grades could follow the world market price, the picture for higher grades is different. On the higher grades, since there is only one EU producer that can produce some of these grades, the MiP would effectively turn into a fixed price for an entire market segment, eliminating all price competition. Meanwhile, the EU supplier would be in a monopolistic position if it chooses to sell below the minimum price, where it may still extract supra-competitive profits. A significant competitive disadvantage would thus follow for the entire EU Transformer industry in relation to their competitors in other world regions. Among other consequences, this uncertainty creates a strong incentive for de-localization. Further, the prioritization of benefitting a very limited supply of high-grade GOES by one EU GOES producer, at the expense of the entire EU Transformer industry, is clearly unreasonable not only from an overall industry, but also from a Union interest perspective. Especially since it is beyond doubt that the EU producer in question is now selling these grades at a significant profit.

It seems that the European Commission is now seeking to lock the prices on all GOES grades at a level significantly higher than the average price levels that the Commission has calculated for the IP plus the duty levels established in the provisional regulation from May 2015. On the basis of the Commission's own calculations relating to the IP period, the minimum prices now suggested would guarantee the EU GOES industry double-digit profits, setting the minimum prices well above the non-injurious price levels previously established. This is contrary to the target profit level set by the Commission itself.

The proposal ignores the EU transformer industry's voice

Over the last months, prior to and after the disclosure of preliminary measures in May 2015, T&D Europe and its member companies have provided the European Commission with numerous facts and figures concerning the negative effects of antidumping measures on our industry. The information provided was checked and verified during the visits of DG TRADE officers at the transformer companies' production sites. To recall:

- We have proven that the GOES prices went up significantly after the investigation period, eliminating any injury that the European Steel Industry might have suffered;

- We have proven that the European Steel industry cannot provide the high grades of GOES in the quantities and qualities needed, in particular with regard to the growing demand for high-grade GOES driven by increased demand for energy efficient transformers, meaning that the European Transformer industry is dependent on free access to the world market;

- We have demonstrated that any antidumping measures will have an adverse effect on the international competitiveness of the European Transformer industry at the benefit of non-EU competitors, harming more than 500 companies, many of them SMEs, altogether representing 30,000 employees in Europe;

- We have explained that transformers are an integral product in the value chain of the smartification of European electricity infrastructures and that that antidumping measures will jeopardise the Transformer Industry's adaptation to the new requirements of the EU Eco-Design regulation;

- We have argued that the proposed measures are not in line with the overall policy objectives of the European Commission as regards competitiveness of the EU industry,

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integration of the European industry in global supply chains, industrial policy and energy policy agenda.

Finally, we have pointed out that just as the transformer producers are dependent on a healthy EU GOES industry, the EU GOES industry is also dependent on a strong transformer industry in Europe – if the European Commission antidumping measures incentivise re-location of transformer production, or create a cost disadvantage that will drive GOES companies out of business, the European Steel industry will lose its customers. Free trade and fair competition are the key factors for the long-term survival and success of both industries. Minimum prices set at the suggested levels will only secure supra-competitive profits for the steel producers at the expense of the transformer producers, creating a market distortion that will harm both industries in the long run. In particular, where is the Union interest to put at risk a high technology industry, with 30,000 highly skilled employees, fully capable of fulfilling the requirements of the Eco-design regulation on transformers and therefore the EU energy efficiency and climate change objectives? The danger is to see the closing down of factories, their relocation or even bankruptcy and the loss of a strong European set of competencies in a major know-how area of the energy sector.

T&D Europe proposal

No measures

It must be reiterated that T&D Europe cannot see a remaining legitimate need for measures. Rather than being an extreme position, this is a natural conclusion from the fact that the EU GOES industry is no longer in an injurious situation, and price levels in the EU are well above the non-injurious levels established by the Commission itself with regard to the IP. It must be emphasized that even if prices were to decline below the MiP suggested, this would not necessarily mean that there is injurious dumping, especially in view of the high MiPs now suggested. MiPs are therefore not equivalent to no measures. T&D Europe still considers this to be the most reasonable route. Why introduce market-distorting measures when the GOES suppliers do not need them?

It is highly disconcerting that the Commission, in view of T&D Europe's position, have merely decided to follow a proposal originating from EUROFER, rather than make a proposal that shows some regard for both industries' needs. Nonetheless, T&D Europe recognizes the ambition of the European Commission to find a mutually acceptable solution.

In order to find an acceptable way forward for all parties and in order to counterbalance the proposed measures, which favour only the European GOES industry, T&D Europe would like to propose that the Commission introduces an exclusion of high-grade GOES, in combination with MiPs on standard GOES. Such a solution would limit the most negative impact of the measures, for the transformer industry, the energy efficiency goals, and the EU economy as a whole:

Exclusion of high-grade GOES from any Commission measures

As outlined in the T&D Europe position paper of 11 June 2015, as an alternative to not introducing measures, the shortage issue could be addressed by excluding the grades where

EU capacity is clearly insufficient. In reality, the separation between conventional, high-permeability ("**HiB**") and domain-refined high-permeability ("**DR**") GOES is present within each thickness, and these differences have direct effects on production cost and sound: using a thinner conventional GOES with the same loss value as a thicker high-permeability GOES will mean more man-hours on the stacking of the transformer core, and significantly higher noise values. However, in the interest of a compromise, T&D Europe would suggest making the exclusion on the basis of so called loss value, and set this level so that most high grades[1] are excluded.

Minimum import prices for low-to-medium quality GOES

T&D Europe would like to recall that due to EU anti-trust laws, no discussion on any price-levels for minimum import prices can take place at the level of the T&D Europe association or between its industry members. Based on the individual figures provided during the verification process, the European Commission will need to assess the right levels for any final objective measures

However, there is a general feeling that the minimum prices indicated in the final disclosure document are too high. T&D is particularly concerned by the fact that so-called "productivity clauses" are standard practice in the majority of long term contracts between the transformer producers and the energy companies (which constitute the bulk of sales in this industry). Such clauses provide for a certain reduction in delivery prices year after year – typically of up to 5% per annum - forcing transformer producers to find all possible ways to compress their costs in order to avoid having to reduce their margins. Given the increasing proportion of the costs of GOES in the total production costs of the transformer as a result of the dramatic price increases, a very large proportion of transformer producers will simply not be able to comply with their contractual commitments if they cannot also find ways to reduce costs of their most important material input. T&D therefore requests the Commission to adapt the minimum prices accordingly by reducing them on a yearly basis by 5% at the anniversary date of their entry into force.

T&D Europe remains at the disposal of the European Commission and the EU Member States for any further detailed discussions on its proposed, alternative concept.

[1] I.e. most of the high permeability («HIB») and domain-refined high permeability ("DR") grades.

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