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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-845]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the Federal Republic of Germany: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the Federal Republic of Germany (Germany) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The final estimated weighted-average dumping margins of sales at LTFV are listed below in the section entitled "Final Determination." The period of investigation (POI) is April 1, 2016, through March 31, 2017.

DATES: Applicable April 16, 2018.

FOR FURTHER INFORMATION CONTACT: Frances Veith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4295.

SUPPLEMENTARY INFORMATION:

Background

On November 22, 2017, Commerce published the *Preliminary Determination* of sales at LTFV of cold-drawn mechanical tubing from Germany.¹ Commerce invited comments from interested parties on the *Preliminary Determination*.² The petitioners,³ Benteler Steel/Tube GmbH (Benteler), Salzgitter Mannesmann Line Pipe GmbH (Salzgitter), filed case⁴ and rebuttal briefs.⁵ Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now April 9, 2018.⁶

The participating mandatory respondent in this investigation is Benteler. In addition, while two other respondents were selected as mandatory respondents, pursuant to sections 776(a)

¹ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 82 FR 55558 (November 22, 2017) (*Preliminary Determination*), and accompanying Preliminary Issues and Decision Memorandum (Preliminary Decision Memorandum).

² See *Preliminary Determination*, 83 FR at 55559.

³ ArcelorMittal Tubular Products, Michigan Seamless Tube, LLC, PTC Alliance Corp., Plymouth Tube Co. USA, Webco Industries, Inc., and Zekelman Industries, Inc. (collectively, the petitioners).

⁴ See the petitioners' Case Brief, "Petitioners' Case Brief," dated March 9, 2018 (Petitioners' Case Brief); Salzgitter's Case Brief, "Antidumping Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Federal Republic of Germany: Case Brief," dated March 9, 2018 (Salzgitter's Case Brief); and Benteler's Case Brief, "Antidumping Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Germany: Resubmission of Case Brief," dated March 27, 2018 (on March 26, 2018, Commerce rejected and removed Benteler's timely filed case brief, submitted on March 9, 2018, from the record and Benteler refiled its case brief with certain information redacted on March 27, 2018).

⁵ See the petitioners' Rebuttal Brief, "Petitioners' Rebuttal Brief on Salzgitter," dated March 14, 2018; the petitioners' Rebuttal Brief, "Petitioners' Rebuttal Brief on Benteler Corrected," dated March 27, 2018 (on March 26, 2018, Commerce rejected and removed the petitioners' timely filed rebuttal brief on Benteler, submitted on March 14, 2018, from the record and the petitioner refiled its rebuttal brief on Benteler with certain information redacted on March 27, 2018); and Benteler's Rebuttal Brief, "Antidumping Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Germany: Rebuttal Case Brief," dated March 14, 2018.

⁶ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. 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).

and (b) of the Act, Commerce continues to rely upon facts otherwise available, with adverse inferences (AFA) in determining the estimated weighted-average dumping margins for Mubea Fahrwerksfedern GmbH (Mubea) and Salzgitter Mannesmann Line Pipe GmbH (Salzgitter). Also, for certain Benteler sales transactions, we relied upon AFA and partial facts available, with adverse inferences, pursuant to section 776(a) and (b) of the Act. For a full description of the methodology underlying the final determination, see the Issues and Decision Memorandum.

A complete summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.⁷

The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and to all parties in the Central Records Unit, Room B-8024 of Commerce's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and electronic version are identical in content.

Scope of the Investigation

The product covered by this investigation is cold-drawn mechanical tubing from Germany. In the *Preliminary Determination*, we set a separate briefing schedule on scope issues for interested parties.⁸ Certain interested parties commented on the scope of the investigation as it appeared in the Preliminary Scope Decision Memorandum.⁹ On December 4, 2017,

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

⁸ See *Preliminary Determination*, 82 FR at 55559. The scope case briefs were due five days after the publication of the preliminary less than fair value determinations for China, Germany, India, Italy, Korea, and Switzerland in the *Federal Register*, and the rebuttal briefs were due three days after the due date for the scope case briefs, i.e., Monday, November 27, 2017 and Thursday, November 30, 2017.

⁹ See Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from

the petitioners withdrew a portion of their comments regarding the scope language.¹⁰ Commerce addressed all scope comments received in the Final Scope Decision Memorandum and made changes to the scope that appeared in the *Preliminary Determination*.¹¹ For the full scope of this investigation, see the scope in Appendix I to this notice.

Period of Investigation

The POI is April 1, 2016, through March 31, 2017.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce verified the sales and cost data reported by Benteler for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and

production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached at Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Benteler since the *Preliminary Determination*. These changes are discussed in the

“Margin Calculations” section of the Issues and Decision Memorandum.

All-Others Rate

Commerce calculated an individual estimated weighted-average dumping margin for Benteler, the only individually examined exporter/producer that is participating in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Benteler is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination Margins

The weighted-average dumping margins are as follows:

| Exporter/producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| BENTELER Steel/Tube GmbH/BENTELER Distribution International GmbH ¹² | 3.11 |
| Mubea Fahrwerksfedern GmbH | 209.06 |
| Salzgitter Mannesmann Line Pipe GmbH | 209.06 |
| All-Others | 3.11 |

¹² In the *Preliminary Determination*, Commerce found that BENTELER Steel/Tube GmbH and BENTELER Distribution International GmbH are a single entity and, because there were no changes to the facts which supported that decision, since that determination was made, we continue to find that these companies are part of a single entity for this final determination. See also Preliminary Decision Memorandum.

Disclosure

We will disclose the calculations performed within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of cold-drawn mechanical tubing from Germany, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 22, 2017, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**. Further, Commerce will instruct CBP to require a cash deposit equal to the estimated amount by which the normal

value exceeds the U.S. price as shown above.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will 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, or sales (or the likelihood of sales) for importation of cold-drawn mechanical tubing from Germany no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP

the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated November 15, 2017 (Preliminary Scope Decision Memorandum).

¹⁰ See the petitioners' Letter, “Certain Cold-Drawn Mechanical Tubing from Germany et al.—EN-10305-3,” dated December 4, 2017.

¹¹ See Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the

Republic of Korea, the People's Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Final Determinations,” dated December 4, 2017 (Final Scope Decision Memorandum).

to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: April 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (e.g., electric resistance welded, continuous welded, etc.) or seamless (e.g., pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to

produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2;

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (e.g., British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this investigation when it meets the physical description set forth above.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestruction testing, deburring or chamfering, remains within the scope of the investigation.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigation even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A-53;
- ASTM A-106;
- ASTM A-179 (ASME SA 179);
- ASTM A-192 (ASME SA 192);
- ASTM A-209 (ASME SA 209);
- ASTM A-210 (ASME SA 210);
- ASTM A-213 (ASME SA 213);
- ASTM A-334 (ASME SA 334);
- ASTM A-423 (ASME SA 423);
- ASTM A-498;
- ASTM A-496 (ASME SA 496);
- ASTM A-199;
- ASTM A-500;
- ASTM A-556;
- ASTM A-565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of this investigation.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

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 - Comment 2: Comparison of U.S. Sales of Cold-Drawn Mechanical Tubing With Home Market Sales of Cold-Drawn Mechanical Tubing
 - Comment 3: Cash (Barverkauf) Sales
 - Comment 4: Use of the Average-to-Average Methodology for Benteler/BDI's Margin Calculation
 - Comment 5: Application of AFA to Salzgitter
 - Comment 6: References to Appropriate Manufacturer
- VI. Recommendation

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