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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-845, A-533-873, A-475-838, A-580-892, A-570-058, A-441-801]

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: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Effective May 9, 2017.

FOR FURTHER INFORMATION CONTACT: Frances Veith at (202) 482-4295, or Shanah Lee at (202) 482-6386 (Federal Republic of Germany (Germany)), Omar Qureshi at (202) 482-5307 (India), Laurel LaCivita at (202) 482-4243 (Italy), Annathea Cook at (202) 482-0250 (Republic of Korea (Korea)), Paul Stolz at (202) 482-4474 (People's Republic of China), and Amanda Brings at (202) 482-3927 (Switzerland), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On April 19, 2017, the U.S. Department of Commerce (the Department) received antidumping duty (AD) Petitions concerning imports of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from Germany, India, Italy, Korea, the People's Republic of China (the PRC), and Switzerland, filed in proper form on behalf of ArcelorMittal Tubular Products; Michigan Seamless Tube, LLC; PTC Alliance Corp.; Webco

Industries, Inc.; and Zekelman Industries, Inc. (collectively, the petitioners).¹ The AD Petitions were accompanied by countervailing duty (CVD) Petitions on imports from India and the PRC. The petitioners are domestic producers of cold-drawn mechanical tubing.²

On April 24, 2017, the Department requested additional information and clarification of certain areas of the Petitions.³ The petitioners filed responses to these requests on April 28, 2017.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially

¹ See “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland – Petitions for the Imposition of Antidumping and Countervailing Duties” (April 19, 2017) (the Petitions).

² See Volume I of the Petitions, at 2.

³ See Letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy the Republic of Korea and Switzerland: Supplemental Questions,” dated April 24, 2017 (General Issues Supplement); see also Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Supplemental Questions; and Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany: Supplemental Questions; and Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Supplemental Questions; and Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Supplemental Questions; and Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Switzerland: Supplemental Questions. All of these documents are dated April 24, 2017. See also country-specific memoranda to the file “Telephone Call to Foreign Market Researcher Regarding Antidumping Petition.”

⁴ See Letter from the petitioners, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea and Switzerland: Petitioners’ Amendment to Volume I Relating to General Issues;” see also “Certain Cold-Drawn Mechanical Tubing from the People’s Republic of China: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Certain Cold-Drawn Mechanical Tubing from the Federal Republic of Germany: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Certain Cold-Drawn Mechanical Tubing from India: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Certain Cold-Drawn Mechanical Tubing from India: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Certain Cold-Drawn Mechanical Tubing from the Italy: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Certain Cold-Drawn Mechanical Tubing from the Republic of Korea: Petitioners’ Response to Questions Concerning the Antidumping Duty Petition;” and “Cold-Drawn Mechanical Tubing from Switzerland: Response to the Department’s Supplemental Petition Questions.” Each of these documents is dated April 28, 2017.

injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioners are requesting.⁵

Periods of Investigation

Because the Petitions were filed on April 19, 2017, the period of investigation (POI) for all investigations except the PRC is April 1, 2016, through March 31, 2017. Because the PRC is a non-market economy (NME) country, the POI for that investigation is October 1, 2016, through March 31, 2017.

Scope of the Investigations

The product covered by these investigations is cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.⁶

⁵ *See* the “Determination of Industry Support for the Petitions” section, below.

⁶ *See* General Issues Supplement, at 1-6 and Exhibits GEN-SUPP-1 and GEN-SUPP-2.

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁷ The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, May 30, 2017, which is the next business day after 20 calendar days from the signature date of this notice.⁸ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, June 9, 2017, which is 10 calendar days from the deadline for initial comments.⁹

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

⁷ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁸ The twenty-day deadline falls on May 29, 2017, a federal holiday; accordingly, our due date will be on the next business day.

⁹ *See* 19 CFR 351.303(b).

(ACCESS).¹⁰ An electronically-filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of cold-drawn mechanical tubing to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe cold-drawn mechanical tubing, it may be that only a select few product characteristics take into account

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products.

Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on May 30, 2017, which is the first business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, must be filed by 5:00 p.m. ET on June 9, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Germany, India, Italy, Korea, PRC, and Switzerland less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹¹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹²

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that cold-drawn mechanical tubing, as

¹¹ See section 771(10) of the Act.

¹² See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹³

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. The petitioners provided 2016 production or U.S. shipments of the domestic like product for all supporters of the Petitions, and compared this to the estimated total production of the domestic like product for the entire domestic industry.¹⁴ We relied on data the petitioners provided for purposes of measuring industry support.¹⁵

Our review of the data provided in the Petitions, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petitions.¹⁶ First, the Petitions established support from domestic

¹³ For a discussion of the domestic like product analysis in these cases, *see* Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany (Germany AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India (India AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy (Italy AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Switzerland (Switzerland AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁴ *See* Volume I of the Petitions, at 2-3 and Exhibits GEN-3 – GEN-5; *see also* General Issues Supplement, at 6-8 and Exhibits GEN-SUPP-3 and GEN-SUPP-4.

¹⁵ *Id.* For further discussion, *see* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

¹⁶ *See* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁷ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.¹⁸ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.¹⁹ Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting that the Department initiate.²⁰

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject

¹⁷ See section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

¹⁸ See PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

¹⁹ *Id.*

²⁰ *Id.*

imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; decreased production, capacity utilization, and U.S. shipments; declines in employment of production-related workers, wages paid, and hours worked; and declines in financial performance.²² We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²³

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For India, Italy, Korea, and the PRC, the petitioners based U.S. price on export price (EP) using price quotes for sales of cold-drawn mechanical tubing produced in, and exported from, the subject country and offered for sale in the United States.²⁴ For Switzerland, the petitioners based

²¹ See Volume I of the Petitions, at 15-16; see also General Issues Supplement, at 9 and Exhibit GEN-SUPP-5.

²² *Id.*, at 12-30 and Exhibits GEN-3, GEN-12 and GEN-14 – GEN-17.

²³ See PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment III); Germany AD Initiation Checklist, at Attachment III; India AD Initiation Checklist, at Attachment III; Italy AD Initiation Checklist, at Attachment III; Korea AD Initiation Checklist, at Attachment III; and Switzerland AD Initiation Checklist, at Attachment III.

²⁴ See India AD Initiation Checklist, Italy AD Initiation Checklist, PRC AD Initiation Checklist, and Korea AD Initiation Checklist.

EP on average unit values (AUVs) of publicly available import data.²⁵ Where applicable, the petitioners made deductions from U.S. price for movement expenses, consistent with the terms of sale, and for a reseller markup.²⁶

Constructed Export Price

For Germany, the petitioners had reason to believe that the first transaction relating to the entry of goods into the United States was to a U.S. affiliate. Therefore, the petitioners based constructed export price (CEP) on a sales offer which was obtained from a confidential source.²⁷ The petitioners made deductions from U.S. price for foreign movement expenses and U.S. importer's selling expenses to derive a net ex-factory CEP.

Normal Value

For Germany, India, Italy, Korea, and Switzerland, the petitioners provided home market price information obtained through market research for cold-drawn mechanical tubing produced in, and offered for sale in, each of these countries.²⁸ For all five of these countries, the petitioners provided a declaration from a market researcher for the price information.²⁹ Where applicable, the petitioners made deductions for movement expenses and imputed credit expenses, consistent with the terms of sale.³⁰

For Germany, Italy, Korea, and Switzerland, the petitioners also provided information that sales of cold-drawn mechanical tubing in the respective home markets were made at prices below the cost of production (COP). With respect to Germany, Italy, Korea, and Switzerland,

²⁵ See Switzerland AD Initiation Checklist.

²⁶ See India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, PRC AD Initiation Checklist, and Switzerland AD Initiation Checklist.

²⁷ See Germany AD Initiation Checklist.

²⁸ See Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

²⁹ *Id.*

³⁰ *Id.*

the petitioners calculated NV based on home market prices and constructed value (CV).³¹ For further discussion of COP and NV based on CV, *see* below.³²

With respect to the PRC, the petitioners stated that the Department has found the PRC to be a NME country in prior administrative proceedings in which the PRC has been involved.³³ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.³⁴ In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioners claim that Mexico is an appropriate surrogate country because it is a market economy country that is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and public information from Mexico is available to value all material input factors.³⁵ Based on the information provided by the petitioners, we determine that it is appropriate to use Mexico as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding

³¹ *See* Germany AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

³² In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

³³ *See* Volume II of the Petition, at 4-5.

³⁴ *See* PRC AD Initiation Checklist.

³⁵ *See* Volume II of the Petition, at 5-6, Exhibit AD-PRC-3.A, B, and C, and Petition Supplement at 4-5 and Exhibit AD-PRC-Supp-5.

surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by the PRC producers/exporters is not available, the petitioners relied on the production experience of a domestic producer of cold-drawn mechanical tubing in the United States as an estimate of Chinese manufacturers' FOPs.³⁶ The petitioners valued the estimated FOPs using surrogate values from Mexico and used the average POI exchange rate to convert the data to U.S. dollars.³⁷

Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), SG&A, financial expenses, and packing expenses. The petitioners calculated COM based on the experience of a surrogate producer, adjusted for known differences between the surrogate producer and the producer(s) of the respective country (*i.e.*, Germany, Italy, Korea, and Switzerland), during the proposed POI.³⁸ Using publicly available data to account for price differences, the petitioners multiplied the surrogate usage quantities by the submitted value of the inputs used to manufacture cold-drawn mechanical tubing in each country.³⁹ For Germany, Italy, Korea, and Switzerland, labor and energy rates were derived from publicly available sources multiplied by the product-specific usage rates.⁴⁰ For Germany, Italy, Korea, and Switzerland, to determine factory overhead, the petitioners relied on the financial statements of companies they

³⁶ *Id.*, at 6 and Exhibit AD-PRC-4.B.

³⁷ *See* Volume II of the Petition at, 6-7 and Exhibit AD-PRC-4.D.

³⁸ *See* Germany AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

³⁹ *Id.*

⁴⁰ *Id.*

asserted were producers of identical or comparable merchandise operating in the respective foreign country or on their own experience for repairs and maintenance and other factory overhead. For SG&A, and financial expense rates, the petitioners relied on financial statements of companies they asserted were producers of identical or comparable merchandise operating in the respective foreign country.⁴¹

For Germany, Italy, Korea, and Switzerland, because certain home market prices fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioners also calculated NVs based on CV for those countries.⁴² Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioners calculated CV using the same average COM, SG&A, and financial expenses, to calculate COP.⁴³ The petitioners relied on the financial statements of the same producers that they used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.⁴⁴

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP, or CEP, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for cold-drawn mechanical tubing are as follows: 1) Germany ranges from 77.70 to 209.06 percent;⁴⁵ 2) India is 33.80 percent;⁴⁶ 3) Italy ranges from 37.08 to 68.95 percent;⁴⁷ 4)

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

Korea ranges from 12.00 to 48.00 percent;⁴⁸ 5) the PRC ranges from 87.58 to 186.89 percent;⁴⁹ and 6) Switzerland ranges from 38.02 to 52.21.⁵⁰

Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made.⁵¹ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁵² The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all

⁴⁵ See Germany AD Initiation Checklist.

⁴⁶ See India AD Initiation Checklist.

⁴⁷ See Italy AD Initiation Checklist.

⁴⁸ See Korea AD Initiation Checklist.

⁴⁹ See PRC AD Initiation Checklist.

⁵⁰ See Switzerland AD Initiation Checklist.

⁵¹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁵² See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.⁵³

Respondent Selection

The petitioners identified eight companies in Germany,⁵⁴ 39 companies in India,⁵⁵ 12 companies in Italy,⁵⁶ 17 companies in Korea,⁵⁷ 91 companies in the PRC,⁵⁸ and three companies in Switzerland,⁵⁹ as producers/exporters of cold-drawn mechanical tubing. Following standard practice in AD investigations involving market economy countries, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of cold-drawn mechanical tubing during the respective POIs under the appropriate Harmonized Tariff Schedule subheadings. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of the initiation of this investigation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://enforcement.trade.gov/apo>.

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for initial comments.

⁵³ *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁵⁴ *See* Volume I at Exhibit GEN-11; and Germany AD Initiation Checklist.

⁵⁵ *Id.*; and India AD Initiation Checklist.

⁵⁶ *Id.*, and Italy AD Initiation Checklist.

⁵⁷ *Id.*; and Korea AD Initiation Checklist.

⁵⁸ *Id.*; and PRC AD Initiation Checklist.

⁵⁹ *Id.*; and Switzerland AD Initiation Checklist.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 PM ET on the date noted above. If respondent selection is necessary, within 20 days of publication of this notice, we intend to make our decisions regarding respondent selection based upon comments received from interested parties and our analysis of the record information.

With respect to the PRC, the petitioners named 12 PRC-producers/exporters as accounting for the majority of exports of cold-drawn mechanical tubing to the United States from the PRC.⁶⁰ In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation and, if necessary, base respondent selection on the responses received. For this investigation, the Department will request Q&V information from known exporters and producers identified, with complete contact information, in the Petition. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Producers/exporters of cold-drawn mechanical tubing from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance website. The Q&V response must be submitted by the relevant PRC exporters/producers no later than 5:00 p.m. ET on May 24, 2017. All Q&V responses must be filed electronically via ACCESS.

⁶⁰ Though the petitioners listed 91 “known Chinese producers of subject mechanical tubing” in Volume I of the Petition at Exhibit Gen-11, they clarified in the PRC-specific Volume II of the Petition that “to the best of the petitioners’ knowledge, cold-drawn mechanical tubing is manufactured in China and exported to the United States by several dozen companies, with the majority of exports coming from {12 listed producers and exporters for which company-specific information was attached}. See Volume II of the Petition at 1-2 and Exhibit AD-PRC-1.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁶¹ The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁶² Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that companies from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of

⁶¹ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁶² Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁶³

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Germany, India, Italy, Korea, the PRC, and Switzerland *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are materially injuring or threatening material injury to a U.S. industry.⁶⁴ A negative ITC determination for any country will result in the investigation being terminated with respect to that country;⁶⁵ otherwise, these investigations will proceed according to statutory and regulatory time limits.

⁶³ See Policy Bulletin 05.1 at 6 (emphasis added).

⁶⁴ See section 733(a) of the Act.

⁶⁵ *Id.*

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires that any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁶⁶ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁶⁷ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from

⁶⁶ See 19 CFR 351.301(b).

⁶⁷ See 19 CFR 351.301(b)(2).

multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁸ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶⁹ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that

⁶⁸ See section 782(b) of the Act.

⁶⁹ See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 9, 2017

Gary Taverman,
Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigations

The scope of these investigations covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, in actual outside diameters less than 331 mm, 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.

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 these investigations when it meets the physical description set forth above.

Steel products included in the scope of these investigations 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 investigations.

All products that meet the written physical description are within the scope of these investigations 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 investigations 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 these investigations:

(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 these investigations.

The products subject to the investigations 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 investigations is dispositive.

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