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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-059

Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, In Part

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the People's Republic of China (PRC), as provided in section 705 of the Tariff Act of 1930 (the Act). The period of investigation is January 1, 2016, through December 31, 2016. For more information on the estimated subsidy rates, *see* the "Final Determination" section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Shanah Lee at (202) 482-6386 or Alex Rosen at (202) 482-7814, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

## Background

The Department published the *Preliminary Determination* on September 25, 2017.<sup>1</sup> A summary of events that occurred since the Department 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.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

## Scope of the Investigation

The product covered by this investigation is cold-drawn mechanical tubing from the PRC. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

## Scope Comments

In the Department's Preliminary Scope Decision Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope case briefs or other written comments on scope issues.<sup>3</sup> Certain interested parties commented on the scope of

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<sup>1</sup> *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44562 (September 25, 2017) (*Preliminary Determination*).

<sup>2</sup> *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> *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

the investigation as it appeared in the Preliminary Scope Decision Memorandum. For a summary of the product coverage comments and rebuttal responses submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.<sup>4</sup> *See* the scope in Appendix I to this notice.

#### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

#### Verification

As provided in section 782(i) of the Act, in September 2017, the Department verified the subsidy information reported by respondents Jiangsu Hongyi Steel Pipe Co., Ltd. (Hongyi) and Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.<sup>5</sup>

#### Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available. As discussed in the Issues and Decision Memorandum, because the Government of the People's

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Decision Memorandum for the Preliminary Determinations" dated November 15, 2017 (Preliminary Scope Decision Memorandum).

<sup>4</sup> *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 Determination" (Final Scope Decision Memorandum), dated concurrently with this final determination.

<sup>5</sup> *See* memorandum to the file, "Verification of the Questionnaire Responses of Jiangsu Hongyi Steel Pipe Co., Ltd.," dated October 19, 2017; and memorandum to the file, "Verification of the Questionnaire Responses of Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E) and Its Cross-Owned Affiliates" dated October 18, 2017.

Republic of China (GOC) did not act to the best of its ability in responding to certain of the Department's requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(a) and (b) of the Act.<sup>6</sup> For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

#### Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections accepted at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum and Final Analysis Memoranda.<sup>7</sup>

#### Final Affirmative Determination of Critical Circumstances, in Part

Due to the timing of the petitioners' critical circumstance allegation and in accordance with 19 CFR 351.206(b) and (e) the Department did not make a preliminary critical circumstances determination.<sup>8</sup> Based on information provided by the petitioners, data placed on the record of this investigation by the mandatory respondents Hongyi and Huacheng I&E, and GTA data collected by the Department, for the final determination, the Department finds that, in accordance with 705(a)(2) of the Act, critical circumstances do not exist for individually-examined respondents Huacheng I&E and Hongyi, but that critical circumstances do exist for

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<sup>6</sup> *See* Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences" section.

<sup>7</sup> *See* Issues and Decision Memorandum; *see also* memorandum to the file, "Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Analysis Memorandum for the Final Determination of the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Jiangsu Hongyi Pipe Co., Ltd.," dated concurrently with this determination (Hongyi's Final Analysis Memorandum); and, memorandum to the file, "Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Calculation Memorandum for the Final Determination for Zhangjiagang Huacheng Import & Export Co., Ltd.," dated concurrently with this determination (Huacheng's Final Analysis Memorandum).

<sup>8</sup> *See* the petitioners' letter, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, Italy, and the Republic of Korea – Critical Circumstances Allegation," dated October 23, 2017.

non-individually examined companies receiving the “All-Others” rate in this investigation. A discussion of the determination can be found in the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated a countervailing duty (CVD) rate for each individually-investigated producer/exporter of the subject merchandise. Consistent with section 705(c)(5)(A)(i) of the Act, we calculated an estimated “all-others” rate for exporters/producers not individually examined. Section 705(c)(5)(A)(i) of the Act provides that the “all-others” rate shall be an amount equal to the weighted average of the countervailable subsidy rates established for individually investigated exporters/producers, excluding any rates that are zero or *de minimis* or any rates determined entirely under section 776 of the Act. Neither of the mandatory respondents’ rates in this final determination was zero or *de minimis* or based entirely on facts otherwise available. Accordingly, the Department calculated the all-others’ rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.

Final Determination

We determine the total estimated countervailable subsidy rates to be:

Company	Subsidy Rate
Jiangsu Hongyi Steel Pipe Co., Ltd. <sup>9</sup>	21.41 percent
Zhangjiagang Huacheng Import & Export Co., Ltd. <sup>10</sup>	18.27 percent
All-Others	19.84 percent

<sup>9</sup> Unchanged from *Preliminary Determination*, the Department finds the following companies to be cross-owned with Hongyi: Hongren Precision Pipe Manufacturing Co., Ltd and Changzhou Kemeng Mechanical Equipment Co., Ltd.

<sup>10</sup> Unchanged from *Preliminary Determination*, the Department finds the following companies to be cross-owned with Huacheng I&E: Zhangjiagang Huacheng Industry Pipe Making Corporation, Zhangjiagang Salem Fine Tubing Co., Ltd., Zhangjiagang Huacheng Investment Holding Co., Ltd., Zhangjiagang HZB Special Material Technology Co., Ltd. and Zhangjiagang Huacheng Special Materials Corporation.

### Disclosure

We intend to disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

In accordance with section 703(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of cold-drawn mechanical tubing from the PRC, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 25, 2017, the date of the publication of the *Preliminary Determination* in the Federal Register. Furthermore, we will instruct CBP to require a cash deposit for such entries of merchandise in the amounts indicated above, pursuant to section 705(c)(1)(B)(ii) of the Act.

Section 705(c)(4) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered. The Department finds that critical circumstances exist for all other exporters or producers of subject merchandise. In accordance with section 705(c)(4) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise from all other exporters/ producers that were entered, or withdrawn from warehouse, for consumption on or after June 27, 2017, which is 90 days before the suspension of liquidation was first ordered.

### U.S. International Trade Commission (ITC) Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative CVD determination. In addition, we are making available to the ITC all non-

privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, we will issue a CVD order directing CBP to assess, upon further instruction by the Department, CVDs 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, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders (APOs)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

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

Dated: December 4, 2017

## 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, nondestructive testing, deburring or chamfering, remains within the scope of this 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**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Final Determination of Critical Circumstances, in Part
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  - B. Legal Framework
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- VII. Application of the Countervailing Duty Law to Imports from the PRC
- VIII. Subsidies Valuation
  - A. Allocation Period
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- IX. Benchmarks and Discount Rates
- X. Use of Facts Otherwise Available and Adverse Inferences
- XI. Analysis of Programs
  - A. Programs Determined to be Countervailable
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- XII. Analysis of Comments
  - Comment 1: The Countervailability of the Government Provision of Coking Coal and Steam Coal for Less than Adequate Remuneration (LTAR)
  - Comment 2: The Provision of Electricity for LTAR
  - Comment 3: The Government Provision of Inputs for LTAR
    - a. Input Producers are “Authorities”
    - b. Inputs are Specific
    - c. Input Industries are Distorted (Tier-One Benchmark for Inputs for LTAR)

Comment 4: Benchmarks for Steel Rounds/Billets, Hot-Rolled and Cold-Rolled Coiled Steel

Comment 5: The Appropriate Benchmark for Ocean Freight

Comment 6: External Benchmark Interest Rates for Loans

Comment 7: GOC Policy Loans during the POI

Comment 8: Huacheng I&E's Bank Acceptance Bills

Comment 9: The Export Buyer's Credit Program

Comment 10: Income Tax Deductions for R&D Expenses

Comment 11: The GOC's Claims Regarding Verification

Comment 12: The Department's Investigation of Uninitiated Programs

Comment 13: Minor Corrections to the Department's Preliminary Benefit Calculation

### XIII. Recommendation

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