



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-812]

Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria: Notice of Court Decision Not in Harmony with Final Determination in Less Than Fair Value Investigation and Notice of Amended Final Determination and Order Pursuant to Court Decision

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

SUMMARY: On February 12, 2019, the United States Court of International Trade (CIT or the Court) sustained the final results of redetermination pertaining to the less-than-fair-value (LTFV) investigation of certain carbon and alloy steel cut-to-length plate (CTL plate) from Austria for the period of investigation from April 1, 2015, through March 31, 2016. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the *Final Determination* and *Order* of the investigation and that Commerce is amending the *Final Determination* and *Order* with respect to the cash deposit rate assigned to voestalpine Grobblech GmbH, voestalpine Steel Service Center GmbH, Bohler Edelstahl GmbH & Co KG, Bohler Bleche GmbH & Co KG, and Bohler International GmbH, (collectively, voestalpine) and the all-others rate.

DATES: Applicable February 22, 2019.

FOR FURTHER INFORMATION CONTACT: Madeline Heeren, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-9179.

SUPPLEMENTARY INFORMATION:

Background

On April 4, 2017, Commerce published its affirmative *Final Determination* of sales at less than fair value, in which it determined a weighted-average dumping margin of 53.72 percent for voestalpine.¹ The antidumping duty order was published on May 25, 2017.² The *Final Determination* was appealed to the CIT by voestalpine, and on July 9, 2018, the CIT sustained, in part, and remanded, in part, Commerce's *Final Determination*.³ Specifically, the Court remanded the *Final Determination* directing Commerce to design a model-match methodology that accounts for commercially significant physical differences among products due to alloy content and to recalculate dumping margins in accordance with the revised model-match methodology.⁴ On October 9, 2018, Commerce issued its final results of redetermination pursuant to remand in accordance with the CIT's order.⁵ On remand, Commerce, under respectful protest,⁶ used the alternative model-match methodology voestalpine proposed during the investigation to account for all commercially significant physical differences, including alloy content, and recalculated voestalpine's weighted-average dumping margin and the all-others rate

¹ In accordance with section 771(33)(F) of the Act, we determined that the following companies were affiliated and should be treated as a single entity for purposes of the investigation: voestalpine Grobblech, voestalpine Steel Service Center GmbH, Bohler Edelstahl GmbH & Co KG, Bohler Bleche GmbH & Co KG, and Bohler International GmbH. See *Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 82 FR 16366, 16367 (April 4, 2017) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

² See *Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders*, 82 FR 24096 (May 25, 2017) (*Order*).

³ See *Bohler Bleche GmbH & Co. KG, et al., v. United States*, 324 F. Supp. 3d 1344 (CIT July 9, 2018) (*Bohler*)

⁴ *Id.* at 1354-1355.

⁵ See Final Results of Redetermination Pursuant to Court Order *Bohler Bleche GmbH & Co. KG, v. United States*, Court No. 17-00163, Slip Op. 18-86 (CIT July 9, 2018), dated October 9, 2018 (*Remand Redetermination*), available at <http://enforcement.trade.gov/remands/index.html>.

⁶ See *Viraj Grp., Ltd. v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003).

using the revised model-match methodology.⁷ On February 12, 2019, the CIT sustained Commerce's *Remand Redetermination*.⁸ Therefore, the effective date of this notice is February 22, 2019.

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision.¹¹ The CIT's February 12, 2019 judgment sustaining Commerce's *Remand Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce's *Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Determination and Amended Order

Because there is now a final court decision, Commerce is amending the *Final Determination and Order* with respect to the margin assigned to voestalpine and all other producers and exporters. The revised weight-averaged dumping margin for voestalpine and the all-others rate for the period April 1, 2015, through March 31, 2016, are as follows:

⁷ See *Remand Redetermination*.

⁸ See *Bohler Bleche GmbH & Co. KG, et al., v. United States*, Court No. 17-00163, Slip Op. 19-19 (CIT February 12, 2019).

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹¹ See Sections 516A(c) and (e) of the Act.

Producer/Exporter	Weighted-average dumping margin (percent)
Bohler Bleche GmbH & Co KG Bohler Edelstahl GmbH & Co KG Bohler International GmbH voestalpine Grobblech GmbH voestalpine Steel Service Center GmbH	28.57
All-Others	28.57

Cash Deposit Requirements

Because voestalpine does not have a superseding cash deposit rate, *i.e.*, there have been no final results published in subsequent administrative reviews for voestalpine, Commerce will instruct U.S. Customs and Border Protection (CBP) to collect the revised cash deposit rates listed above for voestalpine and companies covered by the all-others rate, effective February 22, 2019.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 735(c)(1)(B), and 777(i)(1) of the Act.

Dated: February 26, 2019.

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.