

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-831

Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of seamless refined copper pipe and tube (copper pipe and tube) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2019, through March 31, 2020.

Further, Commerce finds that critical circumstances do not exist.

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

FOR FURTHER INFORMATION CONTACT: Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3609.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2021, Commerce published the *Preliminary Determination* in the LTFV investigation of copper pipe and tube from Vietnam.¹ On February 8, 2021, Commerce

¹ See *Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Negative Determination of Critical Circumstances*, 86 FR 7698 (February 1, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

postponed the final determination of this investigation to June 16, 2021.² The petitioners in this investigation are the American Copper Tube Coalition and its individual constituent members (collectively, the petitioners).³ The sole mandatory respondent in this investigation is Hailiang (Vietnam) Copper Manufacturing Company Limited (Hailiang Vietnam),⁴ and in the *Preliminary Determination*, Commerce determined that Hailiang Vietnam and Hongkong Hailiang Metal Trading Limited (also known as Hong Kong Hailiang Metal Trading Limited) (Hongkong Hailiang) should be treated as a single entity, collectively, Hailiang Vietnam/Hongkong Hailiang.⁵ We invited interested parties to comment on the *Preliminary Determination*.⁶ A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.⁷

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>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The products covered by this investigation are copper pipe and tube from Vietnam. For a full description of the scope of this investigation, see Appendix I.

² See *Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam: Postponement of Final Determination in the Less-Than-Fair-Value Investigation*, 86 FR 8588 (February 8, 2021).

³ The members of the American Copper Tube Coalition are Mueller Copper Tube Products, Inc.; Mueller Copper Tube West Co.; Mueller Copper Tube Company, Inc.; Howell Metal Company; and Linesets, Inc. and Cerro Flow Products, LLC.

⁴ See Memorandum, "Selection of Mandatory Respondents for Individual Examination," dated September 8, 2020

⁵ See Memorandum, "Affiliation and Single Entity Treatment Memorandum," dated January 26, 2021.

⁶ See *Preliminary Determination*.

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope Comments

Commerce received no comments from interested parties regarding the scope of this investigation. Accordingly, Commerce has not modified the scope language from the *Preliminary Determination*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁸

Methodology

Commerce conducted this investigation in accordance with section 731 of the Act. Export price was calculated in accordance with section 772(a) of the Act. Constructed export price was calculated in accordance with section 772(b) of the Act. Because Vietnam is a non-market economy within the meaning of section 771(18) of the Act, normal value was calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying Commerce's determination, *see* the Preliminary Decision Memorandum; *see also* the Issues and Decision Memorandum.

⁸ *See* Commerce's Letter, Remote Verification Questionnaire, dated February 22, 2021.

Changes Since the *Preliminary Determination*

Based on our analysis of the comments received, the information received in lieu of on-site verification, and our analysis of the ministerial error allegations,⁹ we made certain changes to the margin calculations for Hailiang Vietnam/Hongkong Hailiang. For a discussion of these changes, *see* the Issues and Decision Memorandum and the Final Analysis Memorandum.¹⁰ In light of these changes to the margin calculations and the resulting revised estimated weighted-average dumping margin for Hailiang Vietnam/Hongkong Hailiang, we have also revised the rates assigned to companies eligible for a separate rate and to the Vietnam-wide entity.¹¹

Final Negative Determination of Critical Circumstances

Commerce preliminarily determined that critical circumstances did not exist for Hailiang Vietnam/Hongkong Hailiang, the non-individually investigated companies qualifying for a separate rate, and the Vietnam-wide entity.¹² No parties submitted comments regarding our negative preliminary critical circumstances determination. For this final determination, Commerce revised its surge analysis to include all months for which U.S. import data are available. For the final determination, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, Commerce continues to find that critical circumstances do not exist for Hailiang Vietnam/Hongkong Hailiang, the non-individually investigated companies qualifying for a separate rate, and the Vietnam-wide entity. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Issues and Decision Memorandum and the Final Critical Circumstances Surge Analysis Memorandum.¹³

⁹ *See* Memorandum, "Allegation of Ministerial Errors in the Preliminary Determination," dated February 22, 2021.

¹⁰ *See* Memorandum, "Final Determination Calculations for Hailiang Vietnam/Hongkong Hailiang," dated concurrently with this memorandum (Final Analysis Memorandum).

¹¹ *See Preliminary Determination Preliminary Decision Memorandum* at 28.

¹² *See Preliminary Determination*.

¹³ *See* Memorandum, "Final Critical Circumstances Surge Analysis," dated concurrently with this memorandum (Final Critical Circumstances Surge Analysis Memorandum).

Separate Rates

No party commented on our preliminary separate rate determinations with respect to the mandatory respondent and the non-individually examined companies. Thus, there is no basis to reconsider the *Preliminary Determination* with respect to separate rate status for this final determination.

Combination Rates

As explained in the *Initiation Notice* and implemented in the *Preliminary Determination*, we have continued to calculate producer/exporter combination rates for the respondents that are eligible for a separate rate.¹⁴ Policy Bulletin 05.1 describes this practice.¹⁵

Final Determination

The final estimated weighted-average dumping margins are as follows:

Producer	Exporter	Estimated Weighted-Average Dumping Margin (Percent)
Hailiang (Vietnam) Copper Manufacturing Company Limited/Hongkong Hailiang Metal Trading Limited (aka Hong Kong Hailiang Metal Trading Limited)	Hailiang (Vietnam) Copper Manufacturing Company Limited/Hongkong Hailiang Metal Trading Limited (aka Hong Kong Hailiang Metal Trading Limited)	8.35
Jintian Copper Industrial (Vietnam) Company Limited. (aka Jintian Copper Industrial (Vietnam) Co., Ltd)	Jintian Copper Industrial (Vietnam) Company Limited. (aka Jintian Copper Industrial (Vietnam) Co., Ltd)	8.35

¹⁴ *Id.*; see also *Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 47181 (August 4, 2020) (*Initiation Notice*).

¹⁵ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Toan Phat Copper Tube Joint Stock Company	Toan Phat Copper Tube Joint Stock Company	8.35
Vietnam-Wide Entity		8.35

Disclosure

Commerce intends to disclose to interested parties under Administrative Protective Order (APO), the calculations performed in connection with this final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of copper pipe and tube from Vietnam, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after February 1, 2021, the date of publication of the *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon publication of this notice, Commerce will instruct CBP to require a cash deposit for estimated antidumping duties for such entries as follows: (1) for the exporter/producer combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnamese exporters/producers not listed in the above table, the cash deposit rate is equal to the estimated weighted-average dumping margin listed in the table for the Vietnam-wide entity; and (3) for all third-country exporters, the cash deposit rate is equal to the cash deposit rate applicable to the Vietnamese

exporter/producer combination (or the Vietnam-wide entity) that supplied that third-country exporter.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination 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 subject copper pipe and tube, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposited for antidumping duties will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP 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, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding APO

This notice serves as a reminder to the parties subject to APO of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or, alternatively, 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.

Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 16, 2021

/S/ Christian Marsh

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The products covered by this investigation are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in actual length and measuring less than 12.130 inches (308.102 mm) in actual outside diameter (OD), regardless of wall thickness, bore (*e.g.*, smooth, enhanced with inner grooves or ridges), manufacturing process (*e.g.*, hot finished, cold-drawn, annealed), outer surface (*e.g.*, plain or enhanced with grooves, ridges, fins, or gills), end finish (*e.g.*, plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (*e.g.*, plastic, paint), insulation, attachments (*e.g.*, plain, capped, plugged, with compression or other fitting), or physical configuration (*e.g.*, straight, coiled, bent, wound on spools).

The scope of this investigation covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (ASTM) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-B359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein.

Also included within the scope of this investigation are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

“Refined copper” is defined as: (1) Metal containing at least 99.85 percent by actual weight of copper; or (2) metal containing at least 97.5 percent by actual weight of copper, provided that the content by actual weight of any other element does not exceed the following limits:

Element	Limiting content percent by weight
Ag—Silver	0.25
As—Arsenic	0.5
Cd—Cadmium	1.3
Cr—Chromium	1.4
Mg—Magnesium	0.8
Pb—Lead	1.5
S—Sulfur	0.7
Sn—Tin	0.8
Te—Tellurium	0.8
Zn—Zinc	1.0
Zr—Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of this investigation are all seamless circular hollows of refined copper less than 12 inches in actual length whose actual OD exceeds its actual length.

The products subject to this investigation are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the investigation may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, 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. Scope of the Investigation
- V. Final Negative Determination of Critical Circumstances
- VI. Changes Since the Preliminary Determination
- VII. Discussion of the Issues
 - Comment 1: Hailiang America Corporation's (Hailiang America) Credit and Rebate Expenses
 - Comment 2: General and Administrative (GNA) Expenses and Financial (INTEX) Expenses for Further Manufacturing Costs
 - Comment 3: Whether to Continue to Use Factors of Production (FOP) Database "Hailiangfop04a"
 - Comment 4: Surrogate Value (SV) for Nitrogen
 - Comment 5: SV for Electricity
 - Comment 6: SV for Insulation Material Polyethylene (Insulation MPE)
 - Comment 7: Whether to Apply Partial Adverse Facts Available (AFA) to Copper and Electricity Usage Rates
 - Comment 8: Use of Sagardeep Alloys Limited's (Sagardeep) and Bhagyanagar India Limited's (Bhagyanagar) Financial Statements to Calculate the Surrogate Financial Ratios
- VIII. Recommendation