Question
Are stays attached to a pin above the measurement band and passing thorough the mast spar below the measurement band, as in the drawing, backstays?

Answer
No. Rigging attached to a pin above the upper limit mark, but passing through the mast spar below the upper limit mark, as in the drawing above, are running backstays as defined in F.1.7(b)(iii).

Rigging points are defined in ERS F.2.3, and F.2.3(d) applies in this case:

F.2.3(d) RIGGING POINT - The intersection of the outside of the spar, extended as necessary, and the centreline of the rigging.

F.1.7(b)(ii) BACKSTAY
Rigging mainly used to provide aft support for a mast spar above the upper limit mark.

F.1.7(b)(iii) RUNNING BACKSTAY
Rigging used to provide aft support for a mast spar at a point, or points, between the upper limit mark and the forestay rigging point.

Terms in bold style used as defined in the ERS.