



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-201-851]

Certain Fabricated Structural Steel from Mexico: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain fabricated structural steel (fabricated structural steel) from Mexico. The period of investigation is January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Robert Galantucci or Maliha Khan, 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) 482-2923 or (202) 482-0895, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on March 4, 2019.¹ On April 16, 2019, in accordance with section 703(c)(1)(A) of the Act, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now July 5, 2019.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is fabricated structural steel from Mexico. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain

¹ *See Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 84 FR 7339 (March 4, 2019) (*Initiation Notice*).

² *See Certain Fabricated Structural Steel From Canada, Mexico, and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 15581 (April 16, 2019).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 84 FR at 7340.

interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.

For a summary of the product coverage comments and rebuttal comments submitted to the record that have been addressed by Commerce for this preliminary determination, and Commerce's accompanying discussion and analysis of those comments, *see* the Preliminary Scope Decision Memorandum.⁶ Based on our analysis of those comments, we are preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷

Additionally, at the outset of this investigation, several companies failed to respond to Commerce's quantity and value questionnaire.⁸ For these non-responsive companies, Commerce relied on facts otherwise available and, because it finds that the companies did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available in accordance with

⁶ *See* Memorandum, "Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Preliminary Scope Decision," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

⁷ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ The companies that failed to properly respond to Commerce's quantity and value questionnaire were: Acero Tecnologia, S.A. de C.V.; Construcciones Industriales Tapia S.A. de C.V.; Estructuras Metalicas la Popular S.A. de C.V./MSCI; Operadora CICSA, S. A. de C. V. Swecomex – Guadalajara; and Preacero Pellizzari Mexico S.A. de C.V. We refer to these companies, collectively, as the "non-responsive companies."

sections 776(a) and (b) of the Act.⁹ For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of fabricated structural steel from Mexico based on a request made by the American Institute of Steel Construction Full Member Subgroup (the petitioner).¹⁰ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 18, 2019, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted-average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce has preliminarily found a *de minimis* rate for mandatory respondent Building Systems de Mexico, S.A. de C.V. (BSM). Additionally, Commerce has assigned a rate to the non-responsive companies based entirely on facts available, using adverse

⁹ *See* Preliminary Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences.”

¹⁰ *See* Petitioner’s Letter, “Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Request to Postpone Preliminary Antidumping Duty Determination and to Align Final Countervailing Duty Determination with Final Antidumping Duty Determination,” dated June 19, 2019.

inferences, under section 776 of the Act. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Corey S.A. de C.V. (Corey). Consequently, the rate calculated for Corey is also assigned as the rate for all-other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
Building Systems de Mexico, S.A. de C.V.	0.01 percent
Corey S.A. de C.V. ¹¹	13.62 percent
Acero Tecnologia, S.A. de C.V.	74.01 percent
Construcciones Industriales Tapia S.A. de C.V.	74.01 percent
Estructuras Metalicas la Popular S.A. de C.V./MSCI	74.01 percent
Operadora CICSA, S. A. de C. V. Swecomex – Guadalajara	74.01 percent
Preacero Pellizzari Mexico S.A. de C.V.	74.01 percent
All Others	13.62 percent

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash

¹¹ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Corey: Inversiones de Jalisco, S.A. de C.V.; Aceros Corey, S.A.P.I. de C.V.; Industrias Recal, S.A. de C.V.; 6190, S.A. de C.V; Servicios Integrales Corey, S.A. de C.V.; Servicios Técnicos Corey, S.A. de C.V.; Estructuras de Acero CVGS, S.A. de C.V.; and Operadora Industrial El Salto, S.A. de C.V.

deposit equal to the rates indicated above. Because the subsidy rate for BSM is *de minimis*, Commerce is directing CBP not to suspend liquidation of entries of the merchandise from BSM.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs covering non-scope issues, may be submitted no later than five days after the deadline for submitting non-scope related case briefs.¹²

Case briefs or other written comments regarding scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 21 days after the publication of the preliminary AD determinations on fabricated structural steel from Canada, China, and Mexico in the *Federal Register*. Rebuttal briefs, limited to issues raised in scope case briefs, may be submitted no later than five days after the deadline for submitting scope case briefs. For all scope issues, parties must file separate and identical briefs and/or rebuttal briefs on the

¹² See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

records of all of the ongoing CVD and AD investigations of fabricated structural steel from Canada, China, and Mexico through ACCESS. No new factual information may be included in scope case briefs or rebuttal scope briefs.

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: July 5, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is carbon and alloy fabricated structural steel. Fabricated structural steel is made from steel in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is two percent or less by weight. Fabricated structural steel products are steel products that have been fabricated for erection or assembly into structures, including, but not limited to, buildings (commercial, office, institutional, and multi-family residential); industrial and utility projects; parking decks; arenas and convention centers; medical facilities; and ports, transportation and infrastructure facilities. Fabricated structural steel is manufactured from carbon and alloy (including stainless) steel products such as angles, columns, beams, girders, plates, flange shapes (including manufactured structural shapes utilizing welded plates as a substitute for rolled wide flange sections), channels, hollow structural section (HSS) shapes, base plates, and plate-work components. Fabrication includes, but is not limited to cutting, drilling, welding, joining, bolting, bending, punching, pressure fitting, molding, grooving, adhesion, beveling, and riveting and may include items such as fasteners, nuts, bolts, rivets, screws, hinges, or joints.

The inclusion, attachment, joining, or assembly of non-steel components with fabricated structural steel does not remove the fabricated structural steel from the scope.

Fabricated structural steel is covered by the scope of the investigation regardless of whether it is painted, varnished, or coated with plastics or other metallic or non-metallic substances and regardless of whether it is assembled or partially assembled, such as into modules, modularized construction units, or sub-assemblies of fabricated structural steel.

Subject merchandise includes fabricated structural steel that has been assembled or further processed in the subject country or a third country, including but not limited to painting, varnishing, trimming, cutting, drilling, welding, joining, bolting, punching, bending, beveling, riveting, galvanizing, coating, and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the fabricated structural steel.

All products that meet the written physical description of the merchandise covered by the investigation are within the scope of the investigation unless specifically excluded or covered by the scope of an existing countervailing duty order.

Specifically excluded from the scope of the investigation are:

1. Fabricated steel concrete reinforcing bar (rebar) if: (i) it is a unitary piece of fabricated rebar, not joined, welded, or otherwise connected with any other steel product or part; or (ii) it is joined, welded, or otherwise connected only to other rebar.
2. Fabricated structural steel for bridges and bridge sections that meets American Association of State and Highway and Transportation Officials (AASHTO) bridge

construction requirements or any state or local derivatives of the AASHTO bridge construction requirements.

3. Pre-engineered metal building systems, which are defined as complete metal buildings that integrate steel framing, roofing and walls to form one, pre-engineered building system, that meet Metal Building Manufacturers Association guide specifications. Pre-engineered metal building systems are typically limited in height to no more than 60 feet or two stories.
4. Steel roof and floor decking systems that meet Steel Deck Institute standards.
5. Open web steel bar joists and joist girders that meet Steel Joist Institute specifications.
6. Also excluded from the scope of the investigation is scaffolding that complies with ANSI/ASSE A10.8 - 2011- Scaffolding Safety Requirements, and/or Occupational Safety and Health Administration regulations at 29 C.F.R. Part 1926 subpart L - Scaffolds. The outside diameter of the scaffold tubing covered by this exclusion ranges from 25mm to 80mm.
7. Excluded from the scope of the investigation are access flooring systems panels and accessories, where such panels have a total thickness ranging from 0.75 inches to 1.75 inches and consist of concrete, wood, other non-steel materials, or hollow space permanently attached to a top and bottom layer of galvanized or painted steel sheet or formed coil steel, the whole of which has been formed into a square or rectangle having a measurement of 24 inches on each side +/- 0.1 inch; 24 inches by 30 inches +/- 0.1 inch; or 24 by 36 inches +/- 0.1 inch.
8. Excluded from the investigation are the following types of steel poles, segments of steel poles, and steel components of those poles:
 - Steel Electric Transmission Poles, or segments of such poles, that meet (1) the American Society of Civil Engineers (ASCE) – Design of Steel Transmission Pole Structures, ASCE/SEI 48 or (2) the USDA RUS bulletin 1724E-214 Guide specification for standard class Steel Transmission Poles. The exclusion for steel electric transmission poles also encompasses the following components thereof: transmission arms which attach to poles; pole bases; angles that do not exceed 8” x 8” x 0.75”; steel vangs, steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.
 - Steel Electric Substation Poles, or segments of such poles, that meet the American Society of Civil Engineers (ASCE) - Manuals and Reports on Engineering Practice No. 113. The exclusion for steel electric substation poles also encompasses the following components thereof: substation dead end poles; substation bus stands; substation mast poles, arms, and cross-arms; steel brackets, steel flanges, and steel caps; pole bases; safety climbing cables; ladders; and steel templates.
 - Steel Electric Distribution Poles, or segments of such poles, that meet (1) American Society of Civil Engineers (ASCE) – Design of Steel Transmission

Pole Structures, ASCE/SEI 48, (2) USDA RUS bulletin 1724E-204 Guide specification for steel single pole and H-frame structures, or (3) ANSI 05.1 height and class requirements for steel poles. The exclusion for steel electric distribution poles also encompasses the following components thereof: distribution arms and cross-arms; pole bases; angles that do not exceed 8" x 8" x 0.75"; steel vangs, steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.

- Steel Traffic Signal Poles, Steel Roadway Lighting Poles, Steel Parking Lot Lighting Poles, and Steel Sports Lighting Poles, or segments of such poles, that meet (1) the American Association of State Highway and Transportation Officials (AASHTO) – Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, (2) any state or local derivatives of the AASHTO highway sign, luminaries, and traffic signals requirements, or (3) American National Standard Institute (ANSI) C136 - American National Standard for Roadway and Area Lighting Equipment standards. The exclusion for steel traffic signal poles, steel roadway lighting poles, steel parking lot lighting poles, and steel sports lighting poles also encompasses the following components thereof: luminaire arms; hand hole rims; hand hole covers; base plates that connect to either the shaft or the arms; mast arm clamps ; mast arm tie rods; transformer base boxes; formed full base covers that hide anchor bolts; step lugs; internal cable guides; lighting cross arms; lighting service platforms; angles that do not exceed 8" x 8" x 0.75"; stainless steel hand hole door hinges and wind restraints; steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.

- Communication Poles, or segments of such poles, that meet (1) Telecommunications Industry Association (TIA) ANSI/TIA-222 Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, or (2) American Association of State Highway and Transportation Officials (AASHTO) – Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals. The exclusion for communication poles also encompasses the following components thereof: luminaire arms; hand hole rims; hand hole covers; base plate that connects the pole to the foundation or arm to the pole; safety climbing cables; ladders; service ground platforms; step lugs; pole steps; steel brackets, steel flanges, and steel caps; angles that do not exceed 8" x 8" x 0.75", coax, and safety brackets; subcomponent kits for antenna mounts weighing 80 lbs. or less; service platforms; ice bridges; stainless steel hand hole door hinges and wind restraints; and steel templates.

- OEM Round or Polygonal Tapered Steel Poles, segments or shaft components of such poles, that meet the (1) ASCE 48 or AASHTO, (2) ANSI/TIA 222, (3) ANSI 05.1, (4) RUS bulletin 1724E-204, or (5) RUS bulletin 1724E-214. The exclusion for OEM round or polygonal tapered steel poles also encompasses the following components thereof: subcomponent kits for antenna mounts weighing 80 lbs. or less; mounts and platforms; steel brackets, steel

flanges, and steel caps; angles that do not exceed 8" x 8" x 0.75"; bridge kits; safety climbing cables; ladders; and steel templates.

The inclusion or attachment of one or more of the above-referenced steel poles in a structure containing fabricated structural steel (FSS) does not remove the FSS from the scope of the investigation. No language included in this exclusion should be read or understood to have applicability to any other aspect of this scope or to have applicability to or to exclude any product, part, or component other than those specifically identified in the exclusion.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7308.90.3000, 7308.90.6000, and 7308.90.9590.

The products subject to the investigation may also enter under the following HTSUS subheadings: 7216.91.0010, 7216.91.0090, 7216.99.0010, 7216.99.0090, 7222.40.6000, 7228.70.6000, 7301.10.0000, 7301.20.1000, 7301.20.5000, 7308.40.0000, 7308.90.9530, and 9406.90.0030.

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 Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Investigation
 - IV. Injury Test
 - V. Use of Facts Otherwise Available and Adverse Inferences
 - VI. Subsidies Valuation
 - VII. Analysis of Programs
 - VIII. Conclusion
- [FR Doc. 2019-14871 Filed: 7/11/2019 8:45 am; Publication Date: 7/12/2019]