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DEPARTMENT OF COMMERCE

International Trade Administration

[C-201-851]

Certain Fabricated Structural Steel from Mexico: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) 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.

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

FOR FURTHER INFORMATION CONTACT: 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) 482-0895.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2019, Commerce published the *Preliminary Determination*.¹ The petitioner in this investigation is the American Institute of Steel Construction Full Member Subgroup. In addition to the Government of Mexico (GOM), the mandatory respondents in this investigation are Building Systems de Mexico, S.A. de C.V. (BSM) and Corey S.A. de C.V. (Corey).

¹ See *Certain Fabricated Structural Steel from Mexico: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 33227 (July 12, 2019). (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.² 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 <https://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 Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

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

Scope Comments

In accordance with the preamble to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 7330, 7331 (March 4, 2019) (*Initiation Notice*).

In addition, certain interested parties commented on Commerce's preliminary scope decisions. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁵ Based on the comments received, Commerce is modifying the scope language as it appeared in the *Preliminary Determination*. *See* the revised 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 is attached to this notice as Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce 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.⁶ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Use of Adverse Facts Available (AFA)

For purposes of this final determination, we relied on facts available, and because certain respondents did not act to the best of their ability in responding to Commerce's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts

⁵ *See* Memorandum, "Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Final Scope Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

otherwise available in accordance with sections 776(a) and (b) of the Act.⁷ A full discussion of our decision to rely on adverse facts available is presented in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, in August 2019, Commerce verified the subsidy information reported by BSM, Corey, and the GOM. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondents.⁸

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to Commerce’s application of adverse facts available to certain companies. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated individual estimated countervailable subsidy rates for BSM and Corey and established subsidy rates for the 5 companies that failed to respond to Commerce’s quantity and value questionnaire by applying AFA. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually examined, excluding any zero

⁷ See sections 776(a) and (b) of the Act.

⁸ See Memoranda, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Verification of the Questionnaire Responses of Building Systems de Mexico S.A. de C.V.,” dated September 6, 2019; “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Verification of the Questionnaire Responses of Corey S.A. de C.V.,” dated September 26, 2019; and “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Verification of the Questionnaire Responses of the Government of Mexico,” dated September 10, 2019.

and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In this investigation, Commerce has found a *de minimis* rate for mandatory respondent BSM. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available for exporters or producers individually examined is the rate calculated for Corey. Consequently, the rate calculated for Corey is also assigned as the rate for all other producers and exporters.

Commerce determines the total estimated net countervailable subsidy rates to be the following:

Company	Subsidy Rate
Building Systems de Mexico, S.A. de C.V.	0.01 percent
Corey S.A. de C.V. ⁹	13.62 percent
Acero Tecnologia, S.A. de C.V.	68.87 percent
Construcciones Industriales Tapia S.A. de C.V.	68.87 percent
Estructuras Metalicas la Popular S.A. de C.V./MSCI	68.87 percent
Operadora CICSA, S. A. de C. V. Swecomex – Guadalajara	68.87 percent
Preacero Pellizzari Mexico S.A. de C.V.	68.87 percent
All Others	13.62 percent

⁹ 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. See Preliminary Decision Memorandum at 15.

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, that was entered or withdrawn from warehouse for consumption on or after July 12, 2019, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 9, 2019 but to continue the suspension of liquidation of all entries from July 12, 2019 through November 8, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) 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 of fabricated structural steel from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing 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 Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice serves 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 or 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 subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: January 23, 2020.

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

Appendix I

Scope of the Investigation

The merchandise covered by the 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, and parts and accessories thereof, that comply 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 150mm.

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 does not remove the fabricated structural steel 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.

9. Also excluded from the scope of the investigation are Shuttering, Formworks, Propping and Shoring and parts and accessories thereof that comply with ANSI/ASSE A10.9 –Safety Requirements for Concrete and Masonry Work and ACI-347 – Recommended Practice for Concrete Formwork. For Shoring and propping made from tube, the outside diameter of the tubing covered by this exclusion ranges from 48mm to 250mm. For Shuttering and Formworks, the panel sizes covered by this exclusion range from 25mm X 600mm to 3000mm X 3000mm.

10. Also excluded from the scope of the investigation are consumer items for do-it-yourself assembly that are prepackaged for retail sale. For the purposes of this exclusion, prepackaged for retail sale means that, at the time of importation, all components necessary to assemble the merchandise, including all steel components, all accessory parts (*e.g.*, screws, bolts, washers, nails), and instructions providing guidance on the assembly of the finished merchandise or directions on where to find such instructions, are enclosed in retail packaging, such that an end-use, retail consumer could assemble the completed product with no additional components. The items may enter the United States in one or in multiple retail packages as long as all of the components are imported together.

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 Final Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Investigation
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 - V. Use of Facts Otherwise Available and Adverse Inferences
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 - VII. Analysis of Programs
 - VIII. Analysis of Comments
 - Comment 1: Eighth Rule
 - Comment 2: Calculation of Total Adverse Facts Available Rate
 - Comment 3: Application of Adverse Facts Available to BSM
 - Comment 4: Application of Adverse Facts Available to Certain Companies
 - Comment 5: Modification of Corey's Denominators
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- [FR Doc. 2020-01723 Filed: 1/29/2020 8:45 am; Publication Date: 1/30/2020]