



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-831]

Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from Mexico:

Preliminary Affirmative Determination of Circumvention

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of certain high carbon steel (HCS) wire that are produced in Mexico and assembled or completed into prestressed concrete steel wire strand (PC strand) in the United States are circumventing the antidumping duty (AD) order on PC strand from Mexico. As a result, all imports of certain HCS wire from Mexico will be subject to suspension of liquidation on or after July 31, 2023. Commerce is also imposing a certification requirement. We invite interested parties to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Craig Matney or Jonathan Schueler, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2429 or (202) 482-9175, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 2004, Commerce published in the *Federal Register* the AD order on U.S. imports of PC strand from Mexico.¹ On July 31, 2023, pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(d)(1), Commerce initiated a country-wide circumvention inquiry to determine whether imports of HCS wire from Mexico that are assembled or completed into PC strand in the United States are circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*.² On September 25, 2023, Commerce selected Deacero S.A.P.I. de CV (Deacero) and Aceros Camesa S.A. de C.V. (Camesa), Mexican producers of HCS wire, as the mandatory respondents in this circumvention inquiry.³

On December 14, 2023, Commerce extended the deadline for issuing the preliminary determination in this circumvention inquiry until March 27, 2023.⁴ For a complete description of the events that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum.⁵ The topics included in the Preliminary Decision Memorandum are identified in Appendix I 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 <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision

¹ *See Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Mexico*, 69 FR 4112 (January 28, 2004) (*Order*).

² *See Prestressed Concrete Steel Wire Strand from Mexico: Initiation of Circumvention Inquiry on the Antidumping Duty Order*, 88 FR 49438 (July 31, 2023) (*Initiation Notice*). We note that in the *Initiation Notice*, we stated that we are initiating this circumvention inquiry pursuant to 19 CFR 351.226(d)(1)(ii). However, this section was amended after the *Initiation Notice* was published, therefore we reference the latest version of the regulation. *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67078 (September 29, 2023).

³ *See* Memorandum, "Respondent Selection," dated September 25, 2023.

⁴ *See* Memorandum, "Extension of Preliminary Determination," dated December 14, 2023.

⁵ *See* Memorandum, "Prestressed Concrete Steel Wire Strand (PC Strand) from Mexico: Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to High Carbon Steel Wire Completed into PC Strand in the United States," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Memorandum can be accessed directly at

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the *Order*

The merchandise covered by this *Order* is PC strand. Merchandise covered by the *Order* is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheading and are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive. For a full description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers certain HCS wire imported from Mexico. The HCS wire has a high carbon content (*i.e.*, 0.60–0.85 percent),⁶ is not heat treated, and has a diameter less than 4.50 millimeters. The HCS wire is assembled or completed in the United States by stranding the HCS wire to produce PC strand of the type that would be subject to the *Order* (inquiry merchandise).

The inquiry merchandise is currently classifiable under HTSUS subheading 7217.10.8090. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Importers of the subject HCS wire that will not be converted into PC strand in the United States may certify that the HCS wire will not be further processed into subject merchandise covered by the scope of the *Order*. Failure to comply with the requisite certification requirement may result in the merchandise being found subject to AD duties.

⁶ We have revised the scope of the inquiry merchandise from that stated in the *Initiation Notice* to lower the required level of carbon content from 0.78 percent to 0.60 percent to align with the definition of HCS wire as specified by the HTSUS subheading for high carbon steel wire (*i.e.*, 7217.10.8090) because record evidence indicates that certain merchandise being used to produce PC strand does not fall within the parameters of the inquiry merchandise as initiated, see Preliminary Decision Memorandum for further details. We invite interested parties to comment on this revised scope of the merchandise subject to the circumvention inquiry in their case briefs.

Methodology

Commerce made this preliminary circumvention determination in accordance with section 781(a) of the Act and 19 CFR 351.226. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Circumvention Determination

We preliminarily determine that PC strand, assembled or completed in the United States using Mexican-origin HCS wire produced by Deacero, is circumventing the *Order*. We also preliminarily determine that Mexican-origin HCS wire produced by Camesa is not assembled or completed into PC strand in the United States, and therefore, is not circumventing the *Order*.

As detailed in the Preliminary Decision Memorandum, we also preliminarily determine that U.S. imports of inquiry merchandise exported from Mexico are circumventing the *Order* on a country-wide basis. As a result, we preliminarily determine that this merchandise is covered by the *Order*.

See the “Suspension of Liquidation” section below for details regarding suspension of liquidation and cash deposit requirements. *See* the “Certification” and “Certification Requirements” sections below for details regarding the use of certifications.

Suspension of Liquidation

Based on the preliminary affirmative country-wide determination of circumvention, in accordance with 19 CFR 351.226(1)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of HCS wire that are produced in Mexico and assembled or completed into PC strand in the United States, that were entered, or withdrawn from warehouse, for consumption on or after July 31, 2023, the date of publication of the initiation of this circumvention inquiry in the *Federal Register*.⁷

⁷ *See Initiation Notice*, 88 FR at 49438.

For exporters of the HCS wire that have a company-specific cash deposit rate under the *Order*, the cash deposit rate will be the company-specific AD cash deposit rate established for that company in the most recently completed segment of the PC strand from Mexico proceeding.

If the exporter of the HCS wire from Mexico does not have a company-specific cash deposit rate, the AD cash deposit rate will be the “all-others” rate (62.78 percent).⁸ The suspension of liquidation will remain in effect until further notice.

Certified Entries

Entries for which the importer has met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD duties.

Certification

In order to administer the preliminary country-wide and company-specific affirmative determinations of circumvention for Mexico, Commerce has established importer certifications. These certifications will permit importers to establish that specific entries of HCS wire from Mexico are not subject to suspension of liquidation or the collection of cash deposits pursuant to this preliminary country-wide affirmative determination of circumvention because the merchandise will not be further processed into PC strand covered by the *Order* (*see* Appendix II to this notice).

Importers that claim that an entry of HCS wire is not subject to suspension of liquidation or the collection of cash deposits based on the end-use of such merchandise must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the certification.

Certification Requirements

⁸ *See Order.*

Importers are required to complete and maintain the applicable importer certification and retain all supporting documentation for the certification. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit the importer's certification to CBP as part of the entry process by uploading it into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all shipments of HCS wire from Mexico that were entered, or withdrawn from warehouse, for consumption during the period July 31, 2023 (*i.e.*, the date of publication of the initiation of this circumvention inquiry in the *Federal Register*), through the date of publication of this preliminary determination in the *Federal Register*, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of this preliminary determination in the *Federal Register*. For such entries, importers have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.

For unliquidated entries (and entries for which liquidation has not become final) of HCS wire that were declared as non-AD type entries (*e.g.*, type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 31, 2023 (the date of initiation of this circumvention inquiry) through the date of publication of this preliminary

determination in the *Federal Register*, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (e.g., type 01 to type 03). The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this preliminary country-wide affirmative determination of circumvention and the *Order*,⁹ all unliquidated entries for which these requirements were not met and to require the importer to post applicable AD cash deposits equal to the rates noted above.

Interested parties may comment in their case briefs on these certification requirements, and on the certification language contained in Appendix II to this notice.

Verification

As provided in 19 CFR 351.307, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which any verification report is issued. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these circumvention inquiries must submit: (1) a statement of the issue; and (2) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.

⁹ See *Order*.

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023) (*APO and Service Final Rule*).

As provided in 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this circumvention inquiry, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this circumvention inquiry. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹²

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 in the *Federal Register*. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing 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 of the hearing.

U.S. International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, will notify the U.S. International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹² See *APO and Service Final Rule*.

this circumvention inquiry within the *Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(a) of the Act and 19 CFR 351.226(g)(1).

Dated: March 26, 2024.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Merchandise Subject to Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Statutory and Regulatory Framework for the Circumvention Inquiry
- VII. Statutory Analysis for the Circumvention Inquiry
- VIII. Summary of Statutory Analysis
- IX. Country-Wide Affirmation Determination of Circumvention and Certification Requirements
- X. Recommendation

Appendix II

IMPORTER CERTIFICATION

I hereby certify that:

- A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.
- B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject high-carbon steel (HCS) wire produced in Mexico that entered under the entry summary number(s), identified below, and which is covered by this certification. "Direct personal knowledge" refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.
- C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The imported subject-HCS wire covered by this certification was imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

- D. The imported HCS wire covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- E. Select the appropriate statement below:
 - a. I have personal knowledge of the facts regarding the end-use of the imported products covered by this certification because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-HCS wire will not be used to produce subject merchandise. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).
 - b. I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME} located at {ADDRESS}. "Personal knowledge" includes facts obtained from another party (e.g., correspondence received by the importer from the end-user of the product).

F. The imported subject-HCS wire covered by this certification will not be further processed into prestressed concrete steel wire strand (PC strand) in the United States. (NOTE: For certifications related to entries made on or after the date of publication of the Preliminary Determination, and through 14 days after the date of publication of the Preliminary Determination, the importer should replace “will not be further processed” with “were not further processed” in the certification, as necessary).

G. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller’s Address:

Foreign Seller’s Invoice #:

Foreign Seller’s Invoice Line Item #:

Producer:

Producer’s Address:

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

I. I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce), upon the request of either agency.

J. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

K. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping duty order on PC strand from Mexico. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

L. I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME

OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

M. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*.

N. I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

[FR Doc. 2024-06946 Filed: 4/1/2024 8:45 am; Publication Date: 4/2/2024]