



A-201-830
Administrative Review
POR: 10/1/2012 – 09/30/2013
PUBLIC DOCUMENT
Office III: JSC

May 6, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Antidumping Duty Administrative Review: Carbon and Certain
Alloy Steel Wire Rod; 2012 – 2013

SUBJECT: Issues and Decision Memorandum for the Final Results

I. Summary

We analyzed the case brief and the rebuttal brief filed by interested parties. As a result of this analysis, we revised margin calculation for Deacero S.A.P.I. de C.V. and Deacero USA, Inc. (collectively Deacero). We recommend that you approve the positions provided below in the “Discussion of Comments” section of this Issues and Decision Memorandum.

II. Background

On November 7, 2014, the Department published in the *Federal Register* the preliminary results of the antidumping duty (AD) administrative review of carbon and certain alloy steel wire rod (wire rod) from Mexico.¹ We invited interested parties to comment on our *Preliminary Results*. On December 8, 2014, the Department received a case brief from Deacero. On December 15, 2014, we received a rebuttal brief from Petitioners.²

¹ See *Carbon and Certain Alloy Steel Wire Rod From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013*, 77 FR 66358 (November 7, 2014) (*Preliminary Results*), and accompanying “Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Mexico - Decision Memorandum for Preliminary Results,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated October 31, 2014 (Preliminary Decision Memorandum).

² Petitioners are ArcelorMittal USA LLC and Gerdau Ameristeel US Inc.



III. List of Comments

Comment 1: Calculation Errors

Comment 2: Differential Pricing

IV. Scope of The Order

The merchandise subject to the order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003. The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to the order are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6085 of the HTSUS.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

On October 1, 2012, the Department found that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero was circumventing the Order on wire rod from Mexico. The Department found that it is appropriate to consider that shipments of wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the Order on wire rod from Mexico. This affirmative finding applies solely to Deacero.³

³ See *Carbon and Certain Alloy Steel Wire Rod From Mexico: Affirmative Final Determination of Circumvention of the Antidumping Order*, 77 FR 59892 (October 1, 2012).

V. Discussion of Comments

Comment 1: Calculation Errors

Deacero's Arguments

- As a result of missing parentheses in the formula for the calculation of the net home-market price (CMNETRI), certain discounts and expenses incurred in Mexican pesos were added to the gross home-market price, when they should have been subtracted from the gross home-market price.

Petitioners

- If the Department corrects the error that Deacero argued for above, it must also correct other errors. Specifically; the Department inadvertently omitted the variable for INLFWCU, the reported charge for U.S. inland freight from warehouse to unaffiliated customers.

Department's Position: We made the changes recommended by both parties and corrected the errors in the calculation.

Comment 2: Differential Pricing

Deacero's Arguments

- The Department's use of an alternative calculation method is unwarranted because the differential pricing test was satisfied based on further manufactured sales of steel nails as opposed to sales of wire rod.
- The purpose of differential pricing analysis is to uncover instances of targeted dumping and provide for the use an average-to-transaction method if there is a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time.
- It is implausible that Deacero would engage in a scheme of targeted dumping of wire rod through the sale of steel nails manufactured by a U.S. affiliate.
- Yet, it is solely because of Mid Continent's sales of steel nails that the percentage of Deacero's U.S. sales exceeded the 33 percent threshold of the Department's Cohen's *d* test that is part of its targeted dumping analysis.
- Therefore, for the final results the Department should determine that the 33 percent threshold under the *Cohen's d* test has not been exceeded or use its discretion to not apply an alternative margin calculation because of the unique facts in the case.

Petitioners Arguments

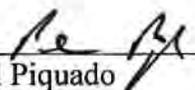
- The statute clearly provides for the deduction of value added in the United States to arrive at net prices for subject merchandise. Thus, after deducting the valued added in the United States from the steel nail prices, the adjusted price covers subject merchandise, and as such, should be included in the differential pricing analysis.
- Commerce does not exclude any U.S. "purchasers", affiliated or not, from its analysis of sales at less than fair value, and should not do so for purposes of applying its differential pricing analysis.

Department's Position: We disagree with Deacero. Pursuant to section 772(d)(2) of the Act, the price used to establish constructed export price shall be reduced by "the cost of any further manufacture or assembly (including additional material and labor)" costs. Thus, in accordance with the statute, the Department correctly included in its dumping analysis Deacero's sales of subject merchandise to affiliated parties that are subsequently further manufactured into different, downstream products. Furthermore and contrary to Deacero's unsubstantiated claim, the Department's statutory obligation to include further manufactured sales in its analysis does not end simply by means of the Department's application of its differential pricing analysis. We note that the net prices the Department used in its differential pricing analysis are the prices for subject merchandise and not the prices for steel nails, (the merchandise further manufactured from the wire rod).⁴ We also note that it was the subject merchandise (wire rod) that was imported into the United States. As such, it is an import subject to the antidumping law whether sold in the United States as wire rod or further manufactured into something else before being sold. If the wire rod had been converted into nails before entering the United States, then the import would have been of non-subject merchandise and would not have been subject to the antidumping duty order on wire rod. However, because it was imported as subject merchandise, wire rod, it is subject to the antidumping duty order on wire rod.

VI. Recommendation:

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.

Agree: Disagree:



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 MAY 2015
Date

⁴ See "Final Results in the 6th Administrative Review on Carbon and Certain Alloy Steel Wire Rod from Mexico: Calculation Memorandum for Deacero S.A. de C.V. and Deacero USA, Inc. (collectively, Deacero)," from John Conniff, International Trade Analyst, AD/CVD Operations, Office III, to The File, through Eric Greynolds, Program Manager, AD/CVD Operations, Office III, dated concurrently with this notice, where the Department deducted the cost of further manufacturing for sales of wire rod to which value was added in the United States by Deacero's U.S. affiliate prior to sale to unaffiliated customers.