

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producer/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. In the petition, the petitioners identified seven producers of PC strand in Mexico. On April 3, 2003, counsel for Camesa and Cablesa indicated that, to the best of their knowledge, those two firms were the only Mexican producers of PC strand that exported to the United States during the period of investigation (POI).⁴ The U.S. embassy in Mexico City provided information that corroborates this claim. Additionally, in an April 2, 2003, submission, Camesa and Cablesa provided the Department with their U.S. export quantities of subject merchandise during the POI. Based on the imported quantities reported by the U.S. Bureau of Customs and Border Protection (CBP), we are satisfied that the record supports the conclusion that Camesa and Cablesa are the only Mexican producers that exported the subject merchandise to the United States. See Memorandum from Daniel O'Brien, International Trade Compliance Analyst, to Gary Taverman, Director, Office 5, Re: Selection of Respondents, dated April 4, 2003.

Period of Investigation

The POI is January 1, 2002, through December 31, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, January, 2003) involving imports from a market economy, and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, PC strand is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered

and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Class or Kind

On March 19, 2003, the respondents in this investigation requested that the Department exclude covered PC strand⁵ from the scope of this investigation. In the same letter, the respondents requested that in the event that the Department does not exclude covered PC strand from the scope, the Department determine that there are two separate classes or kinds of merchandise subject to investigation: (1) Uncovered PC strand used for pre-tensioning applications and (2) covered PC strand used for post-tensioning applications. The petitioners submitted a rebuttal to the respondents requests on March 28, 2003. We have preliminarily determined that the scope of this investigation properly includes covered PC strand. Additionally, we have preliminarily determined that covered and uncovered PC strand constitute one class or kind of merchandise.

Although the Department has the authority to define the scope of an investigation, that authority cannot be used to deprive the petitioner of relief with respect to products the petitioner clearly and explicitly intended to be included in the investigation, unless the resulting order would thereby become unadministrable. Therefore, without the petitioner's consent, the Department has rarely used its authority to narrow the scope of an investigation. See Memorandum from Jim Kemp and Salim Bhabhrawala, Import Compliance Specialists, to Holly Kuga, Acting Deputy Assistant Secretary for Group II, Re: Consideration of Scope Exclusion Request and Class or Kind Determination, dated July 10, 2003 (Scope Exclusion Request and Class or Kind Determination).

The Mexican respondents argue that covered PC strand should be excluded because the petitioners do not manufacture the product. However, the statute does not require that the petitioners have to produce every type of product that is encompassed by the scope of the investigation. See *Notice of*

Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan, 65 FR 42985 (July 12, 2000).

The Department has the authority to narrow the scope of an investigation, but rarely does so except in cases where the petitioner makes such a request or the scope as worded creates ambiguities and administrability problems. In this case, the petitioners' requested scope specifically states that covered PC strand should be included in the investigation. Given the clarity of the petitioners' request to include covered PC strand within the scope and the apparent absence of any difficulties in its inclusion, we find no reason to exclude covered PC strand from the scope of this investigation.

We have also preliminarily determined that there is only one class or kind of merchandise for PC strand. Our determination is based on an evaluation of the criteria set forth in *Diversified Products v. United States*, 572 F. Supp. 883, 889 (CIT 1983) (*Diversified Products*), which look to differences in: (1) The general physical characteristics of the merchandise; (2) the expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves, and; (5) the manner in which the product is advertised or displayed.

In our analysis of the *Diversified Products* criteria, we find that the physical similarities of covered and uncovered PC strand are much greater than the slight change created by the application of grease and plastic coating. The defining characteristic of these products continues to be the strand and covering the merchandise does not change the strand or its chemical or physical properties. Additionally, the expectations of the user and the use of the products is generally the same. It appears to be common practice in the industry for end-users to purchase uncovered PC strand and add covering for post-tension applications, creating the same end-use expectations for both products. Furthermore, the use of the product is essentially the same for post and pre-tensioning applications. Covered and uncovered PC strand is a product used in construction designed to "introduce specified compressive forces into concrete to offset, or neutralize, forces that occur when the prestressed concrete is subject to load." *ITC Preliminary Determination*, 68 FR at 19652; see also Investigations Nos. 701-TA-432 and 731-TA-1024-1028 (Preliminary), USITC Pub. 3589, (March 2003) at 9. Therefore, whether the

⁴ See Memorandum from Daniel O'Brien, International Trade Compliance Analyst, to the File, Re: Telephone Call with Counsel for Mexican Producers Aceros Camesa and Cablesa Regarding Investigation of Prestressed Concrete Steel Wire Strand from Mexico, dated April 3, 2003.

⁵ Covered PC strand is usually coated with grease and encased in plastic covering.