petitioner. Additionally, Gulf States maintains that Siderca's claim that Koppel cannot be added as a copetitioner at the time it made its request on April 27, 1995, is legally incorrect. Citing *Citrosuco Paulista, S.A.* v. *United States* (704 F. Supp. 1075 (CIT 1988)), petitioner asserts that the Department has discretion to permit the amendment of a petition for the purposes of adding co-petitioners who produce the like product, at such time and upon such circumstances as deemed appropriate by the Department.

### DOC Position

We agree with petitioner for reasons explained in our section on "Standing" in this notice.

#### Comment 3

Siderca argues that the Department should reject petitioner's end use language in the scope of this investigation which includes products not subject to this investigation if they are used in standard line pipe applications.

Respondent maintains that such an end use requirement would result in a disparate treatment between imported goods that have crossed the border and domestic goods once they are competing in the U.S. marketplace, which is contrary to Article III of the General Agreement on Tariffs and Trade (GATT).

Respondent also argues that if an end use certification program were implemented, it would be virtually unadministerable because importers and producers normally do not know the end use of their product. Moreover, respondent cites the *Oil Country Tubular Goods from Canada* investigation, in which the Department abandoned its end use program after two years, because the program was cumbersome and difficult to administer.

Petitioner states that end use is an appropriate element of the scope and that the Department has included end use has included end use as an element of scope in other investigations. Furthermore, petitioner maintains that because of overlapping properties, it is possible that pipe made to other specifications than A-53, A-106, A-335, and API-5L may be applied to uses for which those specifications are normally used, creating the likelihood of substitution. Petitioner recognizes that defining scope by end use presents more complications for the enforcement of an order, but, for simplification, has suggested that the Department employ a rebuttable presumption that specification is an indication of use for pipe in non-listed specifications.

Finally, petitioner counters Siderca's assertion that an end use element in the scope is contrary to GATT by stating that the GATT is not violated unless the country imposing the duties has disregarded its obligations under Article VI of the Antidumping Code; and that Siderca does not allege that any provisions of relevant GATT antidumping law would be violated if the Department, following established U.S. practice continues to consider end use as a scope criterion.

## DOC Position

We agree with petitioner for the reasons outlined in the "Scope Issues" section of this notice.

# Comment 4

Siderca argues that there are two classes or kinds of merchandise: standard line pipe 2.0 inches in outside diameter and below; and between 2.0 and 4.5 inches in outside diameter. Respondent maintains that the criteria articulated in Diversified Products support its assertion of two classes of kinds. Specifically, respondent argues that the distinct size differences between steel pipe below 2.0 inches in outside diameter and steel pipe between 2.0 and 4.5 inches are recognized in the industry as differentiating physical characteristics. Respondent maintains that line capacity, operating pressure, temperature, stress level, and structural integrity will determine the size of the pipe, and in turn, will determine the particular application.

With respect to customer expectations, Siderca argues that customers purchase pipe in specific sizes knowing that different sizes have different applications. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe because of the unique characteristics of pipe that size. Moreover, respondent claims that a purchaser will expect pipe above 2.0 inches to be suitable for line pipe applications.

Regarding channels of trade, respondent argues that although pipe below 2.0 inches and pipe between 2.0 and 4.5 inches are sold though distributors, this fact does not make these two groups a single class or kind.

Siderca argues that the ultimate use of the product depends on the size. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe and most pipes between 2.0 and 4.5 inches are sold as line pipe. Furthermore, respondent claims that seamless pipe is almost never used in standard pipe applications.

Respondent contends that the cost of seamless pipe differs significantly

depending on size. Respondent states that smaller pipe also costs more to manufacture because it requires more manufacturing time, on a kilogram basis, than larger pipe. Furthermore, respondent maintains that pipe in sizes under 2.0 inches is usually cold-drawn, a more costly process than hot-finishing, which is the most common production process for pipe above 2.0 inches.

Petitioner argues that an analysis of the five factors used in the diversified products analysis supports a single class or kind of merchandise. Regarding the physical characteristics, petitioner argues that seamless standard, line, and pressure pipe each meet the same physical characteristics described in the petition. Petitioner argues that the use of different production facilities to make physically identical merchandise does not constitute a difference in physical characteristics. Petitioner also states the respondent's argument that cold-drawn merchandise (pipe below 2.0 inches) and hot-finished merchandise (pipe above 2.0 inches) indicated two classes or kinds is contrary to the Department's decision not to create separate classes of kinds based on cold-drawn and hotrolled products in Stainless Steel Bar from Italy. Petitioner asserts that respondent's suggestions that end users have different expectations for pipe below 2.0 inches is unfounded. Petitioner contends that the physical characteristics of pipe are set forth in the ASTM and API specifications, which apply to all subject pipe regardless of size. Petitioners contend that the sales subject seamless pipes are made through the same channels of trade. Petitioner maintains that the ultimate end use of the product is largely dictated by the specification to which the pipe is produced. Petitioner argues that since the majority of imported subject pipe is triple certified, the pipe may be put to use in any of the uses that either A-106, A-53, or API 5L may be applied.

Petitioner argues that all subject seamless pipe has sufficiently similar costs to be considered a single class or kind of merchandise. Petitioner contends that since the majority of the subject pipe is triple certified, it has basically identical costs regardless of the customer to whom it is sold and that there are only minimal differences in production costs between pipe over 2.0 inches and pipe under 2.0 inches.

#### DOC Position

We agree with petitioner for the reasons outlined in the "Scope Issues" section of this notice.