

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness*. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A-335, ASTM A-106, ASTM A-53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines "interested party," *inter alia*, as a producer of the like product. For the reasons outlined in the "Scope Issues" section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC)

has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the "Case History" section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A. v. United States*, 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

[S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time*, and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it "would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when

Congress clearly intended these cases to proceed expeditiously." *Id.* at 1083-84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada*, 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden*, 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons, when verified data permitted, on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B-099 of the main building of the Department.

Fair Value Comparisons

To determine whether Mannesmann's sales of seamless pipe from MSA to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United