of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A-106 pipes may be used in some boiler applications.

The scope of this investigation includes all multiple-stenciled seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, whether or not also certified to a non-covered specification. Standard, line and pressure applications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–106, A–53, or API 5L standards shall be covered if used in an A–106, A–335, A–53, or API 5L application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing, mechanical tubing and oil country tubular goods except when used in a standard, line or pressure pipe application. Also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

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

## **Scope Issues**

In our notice of initiation we identified two issues which we intended to consider further. The first issue was whether to consider end-use a factor in defining the scope of these investigations. The second issue was whether the seamless pipe subject to this investigation constitutes more than one class or kind of merchandise. In addition to these two issues, interested parties have raised a number of other issues regarding whether certain products should be excluded from the scope of this investigation. These issues are discussed below.

Regarding the end-use issue, interested parties have submitted arguments about whether end-use should be maintained as a scope criterion in this investigation. After carefully considering these arguments, we have determined that, for purposes of this preliminary determination, we will continue to include end-use as a scope criterion. We agree with petitioner that pipe products identified as potential substitutes used in the same applications as products meeting the requisite ASTM specifications may fall within the same class or kind, and within the scope of any order issued in this investigation. However, we are well aware of the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties. We will strive to simplify any procedures used in this regard. We will, therefore, carefully consider any comment on this issue for purposes of our final determination.

Regarding the class or kind issue, although respondents propose dividing the scope of this investigation into two classes or kinds of merchandise, they do not agree on the merchandise characteristics that will define the two classes. The respondents in this investigation as well as the Brazilian investigation argue that the scope should be divided into two classes or kinds based on the material composition of the pipe—carbon versus alloy. The respondent in the Argentine investigation argues that the scope should be divided into two classes or kinds of merchandise based on size. Petitioner maintains that the subject merchandise constitutes a single class or

We have considered the class or kind comments of the interested parties and have analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate purchasers; (4) the channels of trade; and (5) cost.

We note that certain differences exist between the physical characteristics of the various products (e.g., size, composition). In addition, there appear to be cost differences between the various products. However, the information on record is not sufficient to justify dividing the class or kind of merchandise. The record on ultimate use of the merchandise and the expectations of the ultimate purchasers

indicates that there is a strong possibility that there may be overlapping uses because any one of the various products in question may be used in different applications (e.g., line and pressure pipe). Also, based upon the evidence currently on the record, we determine that the similarities in the distribution channels used for each of the proposed classes of merchandise outweigh any differences in the distribution channels.

In conclusion, while we recognize that certain differences exist between the products in the proposed class or kind of merchandise, we find that the similarities are more significant. Therefore, for purposes of this preliminary determination, we will continue to consider the scope as covering one class or kind of merchandise. This preliminary decision is consistent with past cases concerning steel pipe products. (See e.g., Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Brazil et al., 57 FR 42940, September 17, 1992). However, a number of issues with respect to class or kind remain to be clarified. We will provide the parties with another opportunity to submit additional information and argument for the final determination. For a complete discussion of the parties' comments, as well as the Department's analysis, see memorandum from Gary Taverman. Acting Director, Office of Antidumping Investigations to Barbara Stafford, **Deputy Assistant Secretary for** Investigations, dated January 19, 1995.

Regarding the additional issues concerning exclusion of certain products, one party requests that the Department specify that multiplestencilled seamless pipe stencilled to non-subject standards is not covered. Furthermore, this party argues that the scope language should be clarified so that it specifically states that only standard, line, and pressure pipe stencilled to the ASTM A-106, ASTM A-53 or API-5L standards are included, and that we clarify the meaning of "mechanical tubing." In addition, this party requests that the Department exclude unfinished oil country tubular goods, ASTM A-519 pipe (a type of mechanical tubing) and mechanical tube made to customer specifications from the scope of this investigation.

Another party requests that the Department specifically exclude hollow seamless steel products produced in non-pipe sizes (known in the steel industry as tubes), from the scope of this investigation.

Because we currently have insufficient evidence to make a

<sup>&</sup>lt;sup>1</sup> Various parties in this investigation, as well as in the concurrent investigations involving the same product from Argentina, Italy, and Germany have raised issues and made arguments. For purposes of simplicity and consistency across investigations, we will discuss all of these issues in this notice.