



FOR PUBLIC FILE
UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-475-814, A-351-826

A-357-809, A-428-820

Scope Inquiry
Public Document
EIII8/PH

By Certified Mail, Return Receipt Requested

JUN 25 1999

To All Interested Parties:

On March 22, 1999, Chicago P.P.L., Inc ("PPL"), on behalf of its parent, Poppe & Potthoff GmbH & Co., Germany ("P & P"), requested that the Department of Commerce (the Department) issue a scope ruling on whether certain high pressure tubing manufactured by P & P are covered by the antidumping duty order for Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line & Pressure Pipe from Germany.

Based on an analysis of the information on the record, as defined below, and in accordance with 19 CFR 351.225(d), the Department has determined that certain of P & P's high pressure tubes: ISO 8535-1, DIN 2391, DIN 2393, DIN 17124, DIN 17204, DIN 17210, DIN 17211, DIN 17212, EN 10305-1, EN 10305-2 and ASTM A-519, when not used in a standard, line or pressure application, are outside the scope of the antidumping orders from Germany, Argentina, Brazil and Italy.

Enclosed is a memorandum containing the Department's analysis. A description of the products and list of specifications covered by this determination is found in the Scope of Investigation section of this memorandum. We will notify the U.S. Customs Service of this decision. If you have any questions, please contact Linda Ludwig at (202) 482-3833.

Sincerely,

Richard Weible
Director

AD/CVD Enforcement Group III/Office Eight

Enclosure



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Enforcement Group III:Office 8

MEMORANDUM FOR: Joseph A. Spetrini
Deputy Assistant Secretary
Enforcement Group III

FROM: *h*✓ Richard Weible, Director *JK*
Office Eight

SUBJECT: Final Negative Scope Ruling - Antidumping Duty Order on Small
Diameter Circular Seamless Carbon and Alloy Steel Standard, Line
and Pressure Pipe from Germany, Argentina, Brazil, Italy and
Poppe & Potthoff GmbH & Co.

SUMMARY

On March 22, 1999, Chicago P.P.L., Inc ("PPL"), on behalf of its parent, Poppe & Potthoff GmbH & Co., Germany ("P & P"), requested that the Department of Commerce (the Department) determine that certain high pressure tubing is outside the scope of the antidumping duty orders on Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line & Pipe from Germany.

Based on an analysis of the information on the record, as defined below, and in accordance with 19 CFR 351.225(d), we recommend that the Department determine that certain of P & P's high pressure tubes: ISO 8535-1, DIN 2391, DIN 2393, DIN 17124, DIN 17204, DIN 17210, DIN 17211, DIN 17212, EN 10305-1, EN 10305-2 and ASTM A-519, when not used in a standard, line or pressure application are outside the scope of the antidumping duty orders from Germany, Argentina, Brazil and Italy because these products clearly do not meet either of the two criteria set forth in the order.

BACKGROUND

On March 22, 1999, PPL submitted a request (P & P Request) to the Department seeking clarification as to whether certain high pressure tubing it imports from Germany are covered by the antidumping duty order on Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line & Pipe from Germany (60 FR 39704, August 3, 1995). One of the petitioners examined the information and confirmed that in their view the merchandise subject to this scope ruling is outside the scope of the order. The other petitioner submitted a letter on June 10, 1999 stating that P&P's tubing is outside the scope order with one exception, pipe meeting specification ASTM A-519.

SCOPE OF ORDER

P & P tubing subject to this scope request is manufactured to the following specifications: ISO 8535-1, DIN 2391, DIN 2393, DIN 17124, DIN 17204, DIN 17210, DIN 17211, DIN 17212, EN 10305-1, EN 10305-2, and ASTM A-519. It has a circular cross-section and an outside diameter that varies from .05 mm to 25 mm. Finally, it has a minimum specified yield strength of 37,000 PSI if less than .5 inches in outside diameter, and a minimum specified yield strength of 75,000 PSI if .5 inches and greater.

ANALYSIS

The regulations governing the Department's antidumping scope rulings can be found at 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the determinations of the Secretary and the International Trade Commission (the Commission), the initial investigation and the order. This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling based upon the application as to whether or not the subject merchandise is covered by the order. *See* 19 CFR 351.225(d).

Conversely, where the descriptions of the merchandise are *not* dispositive, and the Department cannot make a determination based solely upon the application, the Department will initiate a scope inquiry under 351.225(e). The determination as to which analytical framework is most appropriate in any given scope ruling is made on a case-by-case basis after consideration of all evidence before the Department.

In the instant case, the Department has determined that no formal inquiry is warranted to determine whether or not P & P's high pressure tubing is covered by the scope of the order. Because the descriptions of the products contained in the petition, the final determinations of the Secretary and the Commission, and the antidumping duty orders are in fact dispositive, we have evaluated this request in accordance with 19 CFR 351.225(d).

Documents and parts thereof from the underlying investigation deemed relevant by the Department to the scope of the outstanding order were made part of the record of this determination and are referenced herein. Documents that were not presented to the Department, or placed by it on the record, do not constitute part of the administrative record for this scope determination.

On May 20, 1992, Gulf States Tube Division of Quanex Corporation (Quanex) petitioned for the imposition of antidumping duties on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe (seamless pipe) from Argentina, Brazil, Germany, and Italy. In its petition Quanex requested that the investigation cover seamless pipe under 4.5 inches in outside diameter, regardless of wall thickness, manufacturing process, end finish, or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application.

The scope of the antidumping duty investigation and order makes clear that the order is intended to cover not only products which fall within a particular specification, but also products which, regardless of specification, are used in standard, line or pressure pipe applications. For example, the scope of the order identifies certain specifications to be included:

“Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53 and API 5L specifications...”

Amended Final Determination and Antidumping Duty Order: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany, 60 FR 39704 (August 3, 1995).

In addition, under the scope language, pipes which do not meet the noted specifications may still be covered by the order if used in certain applications:

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

Amended Final Determination and Antidumping Duty Order: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany, 60 FR 39704 (August 3, 1995).

Based on the record evidence, scope language in the order and the fact that no evidence of substitution has been submitted, we conclude that P & P's seamless pipes meeting the noted specifications: ISO 8535-1, DIN 2391, DIN 2393, DIN 17124, DIN 17204, DIN 17210, DIN 17211, DIN 17212, EN 10305-1, EN 10305-2 and ASTM A-519, when not used in a standard, line or pressure application, are outside the scope of the antidumping duty orders.

With respect to ASTM A-519, petitioners claim ASTM A-519 can overlap with several standard and pressure pipe specifications, including ASTM A-53 and ASTM A-106. This suggests that this grade could potentially be used in covered applications. In the Notice of Final Determination of Sales at Less Than Fair Value, we stated that "...we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.... we will require end-use certification only for the product(s) (or specifications(s) for which evidence is provided that substitution is occurring...." See *Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany*, 60 FR 31974 (June 19, 1995). We note that no evidence of such use has been provided at this time and therefore, we will not require end-use certification for ASTM A-519 at this time. However, in the future, the Department may reconsider this issue if evidence is provided that substitution is occurring.

RECOMMENDATION

We recommend that the Department find that P & P's seamless, cold-drawn, carbon and alloy steel pipe which conform to the noted physical characteristics stated above and are manufactured to the specifications: ISO 8535-1, DIN 2391, DIN 2393, DIN 17124, DIN 17204, DIN 17210, DIN 17211, DIN 17212, EN 10305-1, EN 10305-2 and ASTM A-519, when not used in a standard, line or pressure application, are outside the scope of the antidumping duty orders on certain small diameter circular seamless carbon and alloy steel standard, line & pressure pipe from Germany, Argentina, Brazil and Italy. We also recommend that end-use certification for ASTM A-519 should not be required at this time.

✓

Agree

Disagree

6/24/97

✓ Agree Disagree

6/25/99

2/25/89
Date