A-201-805
Scope Inquiry
Public Document
Group III/8: MMcP

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

FROM: Richard Weible
Office Director
AD/CVD Enforcement
Group III, Office 8

SUBJECT: Final Scope Ruling - Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Mexico; Galvak, S.A. de C.V.

SUMMARY

On June 16, 1998, Galvak, S.A. de C.V. (Galvak), a Mexican producer of pipe products imported into the United States customs territory, requested that the Department of Commerce (the Department) issue a ruling that its tubular products meeting the specifications ASTM A-787 are outside the scope of the antidumping duty order on circular welded non-alloy steel pipe from Mexico. Based upon an analysis of the information on the record, as defined below, and pursuant to 19 CFR § 351.225, we recommend that the Department determine that tubing is not outside the scope of the antidumping duty order on certain circular welded non-alloy steel pipe and tube from Mexico based solely on the fact that it is produced to ASTM A-787 standards. Therefore, the Department should deny Galvak's scope request.

BACKGROUND

On June 16, 1998, Galvak requested that the Department issue a ruling pursuant to 19 CFR § 351.225 that ASTM A-787 tubing is outside the scope of the antidumping duty order on circular welded non-alloy steel pipe from Mexico. Since the request was not served on one party to the proceeding, at the Department's instructions, Galvak filed a new request on July 20, 1998, which incorporated by reference the June 16 submission.

Galvak intends to export to the United States galvanized tube products that are certified to meet the ASTM A-787 standards. Galvak noted that greenhouse tubing would be one of the intended uses for the tubing destined for the United States. Tube meeting ASTM A-787 standards is defined as "electric-resistance-welded metallic-coated carbon steel *mechanical* tubing" (emphasis added; *see Letter from Shearman & Sterling to the Department,* June 16, 1998). Galvak acknowledges that the Department's final determination in the less-than-fair value (LTFV)

investigation included certain mechanical tubes within its description of the scope of the investigation. However, Galvak notes that, at the domestic industry's request, the International Trade Commission (ITC) determined that mechanical tubing is a separate like product from standard and structural pipes and tubes covered in their affirmative injury determination. Moreover, Galvak states that the ITC further determined that the domestic industry was not injured or threatened by Mexican exports of mechanical tubing (*see, Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela*, No. 731-TA-532 through 537 (Final), USITC Pub. 2564, at 4 (October 1992)(*Standard Pipe*). As a result of the ITC's findings, the scope of the antidumping duty order was narrowed to specifically exclude mechanical tubing. Therefore, the primary basis for Galvak's claim that its pipe is outside the scope of the order is its contention that any pipe meeting ASTM A-787 standards is mechanical tubing and, thus, specifically excluded from the order.

On July 8, 1998, Wheatland Tube Company, Allied Tube and Conduit Company, and the Sawhill Tubular Division of Armco, Inc. (petitioners), domestic producers of welded standard pipe products and interested parties within the meaning of 19 U.S.C. § 1677(9)(C), objected to Galvak's request that the Department issue a scope ruling exempting all ASTM A-787 pipe from the antidumping duty order. On July 14, 1998, Galvak submitted rebuttal comments in response to petitioners' July 8 letter.

In response to Galvak's request for a scope ruling on its ASTM A-787 pipe, the Department reviewed the description of the merchandise contained in the petition, the initial investigation, the Department's determinations, and previous scope determinations. The Department concluded that the information on the record was not dispositive and thus it could not render a decision under 19 C.F.R. § 351.225(d) (*i.e.*, ruling based upon the application). Therefore, on July 22, 1998, the Department initiated an inquiry under § 351.225(e) (*i.e.*, ruling where further inquiry is warranted) and requested comments from all interested parties addressing the issue of whether galvanized tube products that are certified to meet ASTM A-787 standards (*i.e.*, electric-resistance-welded metallic-coated carbon steel mechanical tubing) constitute "mechanical" tubing of a kind which has been excluded from the scope of the order on welded non-alloy steel pipe from Mexico. The Department specifically requested that interested parties address the additional criteria established in *Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983) (*Diversified Products*) in accordance with 19 C.F.R. § 351.225(k)(2).

In response to the Department's July 22 request, we received comments from Galvak and the petitioners on August 11, 1998. On August 28, 1998, Galvak, and Prolamsa, Inc., foreign producers of the subject merchandise, and petitioners submitted comments to the Department in rebuttal to the August 11 submissions. [1]

---

[1]Prolamsa takes no position whether the pipe covered by Galvak's request is covered by this antidumping duty (AD) order. However, Prolamsa urges that Commerce not impede the

To determine whether or not certain tubular products should be excluded from the scope of the order on circular welded non-alloy steel pipe from Mexico, the Department has performed an analysis of both the general information on the record and the record information pertaining to the *Diversified Products* criteria.

B. Scope Language

The scope of the underlying investigation was set forth in the Department's notice of initiation (*Initiation of Antidumping Duty Investigations: Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic or Korea, Mexico, Romania, Taiwan, and Venezuela*, 56 FR 52528 (October 21, 1991)). This scope language was modified for the final determination of sales at less than fair value (*Final Determination of Sales at Less Than Fair Value*, 57 FR 42953 (September 17, 1992)), and again for the antidumping duty orders: *Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992). Below is the scope description in the orders:

> The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.
>
> All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil or gas pipelines is also not included in this order.

---

importation of products clearly outside the scope of the AD order, such as black mechanical tubing produced to A-513 specifications.

Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings:7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review, 63 FR 33041 (June 17, 1998); *see also Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela,* 61 FR 11608 (March 21, 1996)(*Final Negative Scope Inquiry on Line Pipe*).

C. Comments from Interested Parties

Galvak maintains that its welded galvanized mechanical tubing products are clearly mechanical tube products because they are produced to the standard for ASTM A-787, a standard that is self-described as "electric-resistance-welded metallic-coated carbon steel *mechanical* tubing" (emphasis added; *see*, *Letter from Shearman & Sterling to the Department*, August 11, 1998). Galvak points out that the scope of the order states that "all carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, ..." Since the antidumping duty order clearly excludes mechanical tubing, there is no need for any further inquiry, in Galvak's opinion.

From Galvak's perspective, end use is not a factor, as petitioners claim, in determining whether products that meet the described physical characteristics are covered. In support of this view, Galvak cites the Department's negative final determination on line pipe, wherein we state that the scope language excluded certain types of pipe, based on industry classifications, without discussion of actual end uses (see Final Negative Scope Inquiry on Line Pipe, at 11608).

Galvak also notes that the ITC in its final determination observed that "whereas a large percentage of standard and structural pipes and tubes is produced to narrowly-drawn ASTM standards, mechanical tubing is produced to customer specifications" (USITC Pub. 2564 at 16). Galvak states that the products it intends to export to the United States will be based on specific customer requirements, but at the same time will fall within the general ASTM A-787 standards for "metallic coated carbon steel mechanical tubing," and will be certified to meet ASTM A-787 (and not any other standards).

According to Galvak, the domestic parties contention that Galvak's mechanical tubing products cannot be the type of merchandise excluded by the ITC, because "it is produced to

ASTM rather than customer specifications" is incorrect. Galvak maintains that the mechanical tubing it intends to export to the United States is not produced only to the tolerances of the A-787 specifications. Rather, this specification is only a starting point - the final product will meet each customer's specific requirements.

The petitioners object to Galvak's request that the Department issue a ruling exempting all ASTM A-787 pipe from the above-referenced antidumping duty order, stating that such pipe is included in the order, if used in a standard pipe application. According to petitioners, the A-787 pipe in question is clearly "circular welded non-alloy pipes and tubes..." matching the dimensions and other technical characteristics of in-scope merchandise. Therefore, A-787 tubing is not excluded from the scope of the order as Galvak contends. Petitioners contend that depending on wall thickness, this pipe would be imported under section 7306.30.10.00 or 7306.30.50.32 of the Harmonized Tariff Schedule (HTS), tariff numbers specifically covered by the order.

The petitioners state that the ITC considered two types of mechanical tubing in its injury determination. The first was cold-rolled and cold-drawn mechanical tubing which was acknowledged by all parties as being outside the scope of the investigation (*see*, *Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela*, Invs. Nos. 731-TA-532 through 537 (Final), USITC Pub. 2564, at I-8). The second type was hot-rolled. The latter, which was found by the ITC to be a separate like product which did not cause injury, was described as being "used for automotive applications, exercise equipment, and furniture frames." *Id.* at 16. The fact that the word "mechanical" is used in defining A-787 tubing is not relevant, in petitioners' view.

According to petitioners, the A-787 pipe described by Galvak is recognized as being produced to ASTM specifications rather than to customer specifications, which is characteristic of mechanical tubing. In petitioners' view, pipes and tubes for greenhouse frames are "framing and support members" used in a "light load-bearing application" which are described as subject merchandise in the scope of the order.

The petitioners cite Allied Tube, the industry leader in the production of greenhouse tubing, in support of their position. An Allied official states that this tubing may be metallic coated to customers' individual specifications; however, it also must possess the mechanical properties of structural (not mechanical) tubing. In fact, Allied claims that the tubing sold to original equipment manufacturers of greenhouses would be produced and sold to meet ASTM A-500 mechanical properties or their equivalent. Petitioners note that the tubing sold by Allied for greenhouse applications meets both the dimensional and mechanical specifications prescribed for ASTM A-500 pipe, which is a standard specification for structural tubing that is clearly covered by the order. Petitioners note that the ASTM A-787 standards prescribes no mechanical properties. Petitioners claim that if the pipe made by Galvak is to be marketed for greenhouse applications, it would also have to meet A-500

properties (see, *Letter from Schagrin & Associates to the Secretary, Attachment I*, August 11, 1998).

If Galvak's pipe is found to be outside the scope of the order, petitioners speculate that Galvak could easily produce A-787 tubing that would not have the specialized metallic coatings or meet the mechanical specifications normally associated with "greenhouse tubing." In this situation, petitioners assert that Galvak could sell such tubing through distributors as galvanized fence tubing, and cause substantial injury to producers of a like product that was indisputably covered by the ITC's affirmative injury determination.

Petitioners state that if the Department were to find, contrary to the facts, that A-787 pipe and tube used in greenhouse kits is outside the scope of the order, that finding should be expressly limited to greenhouse kits. In addition, petitioners request that any such finding should also reiterate that all fence tubing meeting the physical characteristics of in-scope merchandise is covered by the order.

Comments on Diversified Products Criteria

Galvak prefaces its remarks on *Diversified Products* by stating that it believes that consideration of the five criteria as outlined in *Diversified Products* is unnecessary and inappropriate, but contends that if the Department were to consider those criteria, they would also support the exclusion of the products Galvak intends to export.

The petitioners argue that Galvak's contention that A-787 should be excluded from the order because the specification is self-described as mechanical tubing is not dispositive. Under such circumstances, petitioners state that the Department's regulations instruct it to consider the five criteria of *Diversified Products*.

1. **Physical characteristics**

Galvak states that there are differences between the physical characteristics of mechanical tubing and "standard" pipe. For example, hot-rolled mechanical tubing covers a variety of essentially custom-designed products with precise specifications (*e.g.*, the steel used, the wall thickness, the tolerance for outside diameter, the length, and the organic coating). Standard pipe, in contrast, is a commodity produced to general industry wide specifications (*e.g.*, standard grades of steel, common wall thicknesses).

Galvak notes, however, that it is not possible, at this time, to provide a comprehensive description of all of the A-787 tubing it intends to export because the precise specifications will depend on the requirements of its customers.

Petitioners counter that ASTM A-53, the specification for standard pipe clearly within the scope of the order, can be made to the same wall thicknesses and outside diameters as tubing

used in greenhouse kits. Petitioners point out that Galvak's own product brochure states that the "Standard Mill Length" of its A-787 mechanical tubing is 21 ft. (6.4 meters). Moreover, Allied Tube and Conduit Co., the industry leader in the production of greenhouse tubing, certifies that perhaps as much as 50 percent of greenhouse tubing sold in the United States is sold in "standard lengths" of either 21ft. or 24 ft. (*see, Letter from Schagrin Associates to the Secretary*, August 28, 1998, Exhibit 1).

2. **Expectations of the Ultimate Purchaser**

Petitioners state that not withstanding the fact that hot-rolled A-787 is designated by the ASTM as "mechanical" tubing, the application Galvak mentions (*i.e.*, greenhouse tubing) is considered to be structural tubing because of the "light load-bearing" nature of greenhouse tubing. Furthermore, purchasers of greenhouse tubing, like purchasers of other kinds of circular welded carbon steel pipe and tube products, recognize that industry designations of pipe products as standard, structural, or mechanical are simply broad, general usage categories, wherein certain applications overlap.

See Galvak's comments under "Physical Characteristics."

3. **End Use**

Galvak maintains that the mechanical tubing it intends to export cannot be used in most standard or structural pipe applications because it will not be certified to meet the appropriate ASTM standards for standard pipe (A-53) or structural pipe (A-500).

Galvak states that a review of the record of the ITC's investigation reveals that the ITC did not define mechanical tubing based on end use. In Galvak's opinion, both the ITC and the petitioners recognized that the ASTM specifications for mechanical tubing products define the broad outlines of the mechanical tubing category.

Petitioners state that Galvak's argument misses the point - the issue is not whether Galvak's A-787 tubular products can be used in most standard or structural pipe applications, but whether Galvak's tubing is used for an application specifically covered by the ITC's description of standard and structural pipes and tubes covered by the order. Petitioners contend that tubing used in constructing greenhouses that can bear the weight of debris and snow is used in a "light load bearing application." USITC Pub. 2564 at 16, I-7 n. 11. They cite the declaration of Allied Tube that the "industry" itself also considers greenhouse tubing to be a structural application, and greenhouse tubing is, therefore, covered by the order (*see Letter from Schagrin Associates to the Secretary*, August 11, 1998). Petitioners assert that mechanical tubing is in fact interchangeable with standard or structural pipe in certain applications.

4. **Channels of Distribution**

Galvak states that in-scope pipe is sold by the manufacturer to distributors and service centers. By contrast, mechanical tubing normally is sold either directly to end users or through agents. The product Galvak intends to export will be sold through this traditional mechanical tubing distribution channel. Galvak notes that, "to the extent that Galvak were to sell through distributors, those distributors would be limited to the suppliers of the greenhouse...manufacturers and similar end users" (*see Schagrin Associates Letter to the Secretary,* August 28, 1998).

Petitioners concede that metallic-coated tubing used in greenhouses is sold primarily to end users, while most "standard" pipe as defined in the order is sold through distributors. However, according to petitioners, one product line, hoop houses, is a part of the greenhouse tubing market where end users typically do not require precise specifications and, therefore, purchase from fence distributors. Thus, petitioners believe that A-787 tubing from Galvak would likely be sold in the same channel of distribution as fence tubing, a product that is covered by the order.

5. **Method of Advertising**

Galvak points out that the mechanical tubing it plans to export is advertised in Galvak's brochure describing its mechanical tubing products (*see* Attachment 2 of the *Letter from Shearman & Sterling to the Secretary*, August 11, 1998). Galvak notes that it is significant that the brochure does not include any standard pipe, structural pipe, or fence pipe products.

In rebuttal, petitioners point out that it is hardly significant that the brochure makes no mention of standard pipe or structural pipe, since Galvak does not produce any standard or structural pipe products. *Id.* Petitioners note that regarding fence products, however, Galvak's brochure states: "Galvak galvanized tubing is specifically suited for manufacturing mufflers and fences..." (*Id.*, Attachment 2, p. 3).

Analysis

The regulations governing the Department's antidumping scope determinations 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 initial investigation, the determinations of the Secretary (including prior scope determinations) and the ITC. *See* 19 CFR § 351.225(k)(1). 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 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, the Department will

consider the additional so-called *"Diversified Products"* criteria set forth at 19 CFR § 351.225(k)(2). These criteria are: i) the physical characteristics of the merchandise; ii) the expectations of the ultimate purchaser; iii) the ultimate use of the product; iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed. The Department applies these criteria when the product descriptions contained in the petition, the determinations of the Secretary and the ITC, the investigation, and the order are ambiguous or unclear. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

In the instant case, the Department initiated a formal inquiry to determine whether or not tubing manufactured to A-787 standards is covered by the scope of the order. The Department also concluded that the descriptions of the merchandise were not dispositive. Accordingly, as indicated above, for this scope determination, the Department requested that the parties comment on the *"Diversified Products"* criteria. The Department has performed an analysis of both the general information on the record and the record information pertaining to the *"Diversified Products"* criteria.

Based on a thorough review of the record, and after careful consideration of the general comments and comments addressing the *Diversified Products* factors by interested parties, we conclude that all tubing certified to meet the ASTM A-787standards specification for "electric-resistance-welded metallic-coated carbon steel mechanical tubing," is not excluded from the scope of the order on circular welded non-alloy steel pipe from Mexico.

Although both parties in their submissions use greenhouse tubing as an example of one of the uses for tubing which meets A-787 specifications, Galvak's request encompasses any product produced to A-787 specifications.

First, we continue to find that the written descriptions and prior scope rulings are not dispositive. The sole description of excluded mechanical tubing is contained in the ITC report and is based exclusively on use. The uses of the A-787 pipe described by Galvak are not dedicated only to the uses discussed by the ITC; therefore, the descriptions of mechanical tubing are not dispositive in this case. Galvak's contention that the type of mechanical tubing it intends to produce will be used for, among other things, greenhouse kits, *i.e*, in the "posts and poles" mechanical tubing applications, specifically identified by the ITC's staff report, is not convincing. As petitioners note, fence tubing, a product within the scope of the order, could just as readily be termed "posts and poles." Furthermore, Galvak does not say that the pipe it produces to A-787 specifications will be used for any of the end-use applications for "subject mechanical tubing," designated by the ITC as the primary uses of mechanical tubing (*i.e.*, automotive applications, exercise equipment, and furniture frames). Additionally, Galvak's contention that its welded galvanized mechanical tube products produced to the standard for ASTM A-787 are outside the order because they are defined as "electric-resistance-welded metallic-coated carbon steel mechanical tubing" is not dispositive. The mere presence of the

word "mechanical" in the ASTM definition does not necessarily mean that the product falls within the exclusion.

From the information on the record, we cannot be assured that "mechanical tubing," specified to A-787 standards, will fall within the exclusion because the physical characteristics of mechanical tubing and subject merchandise can overlap. The only description of excluded mechanical tubing used by the ITC is based exclusively on use. ASTM is a broad category encompassing pipes suitable for a variety of uses beyond those used to describe excluded merchandise. Moreover, even if the ITC had provided a description of the physical characteristics of the mechanical tubing they were addressing, Galvak has not provided a clear physical description of the specific products it intends to import. In fact, Galvak itself acknowledges that it is not possible, at this time, to provide a comprehensive description of all of the products Galvak intends to export to the United States under this specification because the precise specifications will depend on the requirements of its customers. Since A-787 tubing covers such a broad range of characteristics and uses, we are unable to determine that all A-787 tubing is outside the antidumping duty order on circular welded non-alloy steel pipe.

In comparing its ASTM A-787 "mechanical tubing" to structural pipe, Galvak states that the steel used will be different, the wall thicknesses will vary and be different, the tolerances for outside diameters will be tighter, it will generally be sold in different lengths, and it will require an organic coating not usually used in standard pipe. Although Galvak states that its product will be customized to suit individual customer requirements, it has not limited its request to exports of A-787 pipe that will have the customer-specific engineering specifications typical of mechanical tubing. As petitioners noted, ASTM A-787 tubing used for some applications is produced to the same dimensional characteristics (outside diameter, gauge, and length) as some standard pipe, and thus has the same physical characteristics as subject merchandise. In fact, Allied questions whether A-787 is the appropriate standard to use as a basis for the production of greenhouse tubing. Finally, as noted above, even if Galvak's request were limited to products with engineering specifications typical of mechanical tubing, the ITC's description is based on uses, not engineering specifications. Therefore, there would be no way to determine whether such engineering specifications matched those of the products the ITC actually examined. Accordingly, we would have to resort to a *Diversified Products* analysis.

Galvak's contention that the ITC based its definition of mechanical tubing completely on normal industry classifications and not on end use is incorrect. The Commission defined excluded mechanical tubing solely in accordance with their end uses. In addition, Galvak's comparison of the Department's negative scope determination with respect to line pipe to this scope inquiry on mechanical tubing is misplaced. In that case, the Department made no analysis as to mechanical tubing, and held that the inclusion or exclusion of line pipe was tied to its HTS category, based on the petitioners' acknowledgment that any pipe entered under the item heading for line pipe would be outside the scope of the petition (see, *Negative Final Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico and Venezuela*, 61 FR 11608 (March 21, 1996)). By contrast in this case the only

description of the excluded products is the ITC's discussion of the uses of mechanical tubing. Therefore, the analysis in this case is very different from that used in the line pipe decision.

Diversified Products Analysis

Given that the only description of mechanical tubing is the ITC's discussion of the uses of that product, and the fact that it is unclear whether the products Galvak intends to import are dedicated to or even intended for such uses, we must turn our analysis to the *Diversified Products* criteria.

1. **Physical Characteristics**

   Based on the description of the comparative physical characteristics of A-787 mechanical tubing and structural pipe, it is evident that the specifications for the ASTM A-787 mechanical tubing are extremely broad and, for some applications, is produced to the same dimensional characteristics (outside diameter, gauge, and length) as ASTM A-53 as well as other standard or structural pipe specifications. Because A-787 pipe can be made to the same wall thicknesses and outside diameters as standard or structural pipe products that are clearly within the scope of the order, the physical characteristics of A-787 tubing are not always unique. Therefore, the Department has concluded that a comparison between the physical characteristics of material meeting A-787 specifications and those of structural or standard pipe does not establish that all pipe manufactured to A-787 standards is outside the scope of the order.

2. **Expectations of the Ultimate Purchaser**

   Based on the record, it is not clear what products Galvak intends to export that are produced to A-787 standards. For example, if this product is indeed used as greenhouse tubing, there is no evidence that the expectations of purchasers of this product would be any different from those of purchasers of standard pipes and tubes for "light load-bearing" or "structural" applications which are clearly included within the scope of the order. Further, because Galvak has not yet sold these A-787 products in the United States, we do not know the expectations of the purchaser. Therefore, we cannot conclude that A-787 pipe promotes unique expectations not shared by in-scope merchandise.

3. **End-Use**

   There is no evidence on the record to suggest that the end-uses of pipe produced to A-787 standards will be any different from the end uses of subject merchandise. See also discussion of end-use under "Analysis" on p. 9.

4. **Channels of Distribution**

There is no evidence that the channels of distribution for all A-787 products are different from those of the subject merchandise or are unique to mechanical tubing (as defined by the ITC).

5. **Method of Advertising**

The fact that Galvak's fence tubing and mechanical tubing are advertised in the same brochure indicates that there is no basis for differentiating A-787 products on this basis.

CONCLUSION

In summary, in accordance with 19 CFR 351.225, and based on our review of the record of this scope inquiry, the Department has determined that pipe is not excluded from the scope of the antidumping order on circular welded non-alloy steel pipe from Mexico based solely on the fact that it is produced to ASTM A-787 standards. To determine whether a product falls within the scope of the order or is excluded mechanical tubing, the Department would require more detailed information on the characteristics and uses of the specific product at issue.

RECOMMENDATION

We recommend that the Department determine that pipe is not excluded from the antidumping duty order on circular welded non-alloy steel pipe from Mexico based solely on the fact that it is produced to ASTM A-787 standards. Therefore, the Department should deny Galvak's scope request.

Agree_____ Disagree_____

If you agree, we will send a letter to interested parties, and we will notify Customs of our determination.

Joseph A. Spetrini
Deputy Assistant Secretary
Enforcement Group III

11-19-98
(Date)