

publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). The Department will issue the final results of these preliminary results, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. As a result of the Court of International Trade's decision in *Corus Staal BV et al v. United States*, Consol. Court No. 02-00003, Slip Op. 03-127 (CIT September 29, 2003), we will not assess duties on merchandise that entered between October 30, 2001 and November 28, 2001, inclusive. For more information, see *Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands: Notice of Final Court Decision and Suspension of Liquidation*, 68 FR 60912 (October 24, 2003). Thus, in accordance with 19 CFR 351.212(b)(1), we will calculate an importer-specific *ad valorem* assessment rate for merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties less the total customs value of the sales of merchandise that entered between October 30, 2001, and November 28, 2001, inclusive. This rate will be assessed uniformly on all entries of that particular importer made during the periods May 3, 2001, through October 29, 2001, and November 29, 2001, through October 31, 2002. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash

deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 2.59 percent, the "all others" rate established in the LTFV investigation. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 59565 (November 29, 2001).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: December 1, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-820]

#### Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Thailand

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final determination of sales at less than fair value and negative final determination of critical circumstances.

**EFFECTIVE DATE:** December 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Carol Henninger or Constance Handley, at (202) 482-3003 or (202) 482-0631, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

### Final Determination

We determine that prestressed concrete steel wire strand (PC strand) from Thailand is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice. In addition, we determine that critical circumstances do not exist with respect to PC strand produced and exported by the respondent in this investigation as well as all other producers/exporters.

### Case History

The preliminary determination in this investigation was published on July 17, 2003. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Thailand*, 68 FR 42373 (July 17, 2003) (Preliminary Determination). Since the publication of the preliminary determination, the following events have occurred:

On July 25, 2003, the Department of Commerce (the Department) received a request from the respondent in this investigation, Siam Industrial Wire Co., Ltd. and Cementhai SCT USA (collectively, SIW), proposing a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On several occasions, the Department discussed the proposed suspension agreement with counsel to SIW, who subsequently concluded that a suspension agreement would not be pursued. See *Memorandum from Gary Taverman, Director, Office 5, to the File, Re: PC Strand from Thailand - Proposed Suspension Agreement* (November 24, 2003).

In September 2003, the Department verified the questionnaire responses submitted by SIW. The sales and cost verification reports were issued in October 2003. On October 23, 2003, we received case briefs from the petitioners<sup>1</sup> and SIW. On October 28, 2003, we received a rebuttal brief from SIW. A public hearing was held on November 3, 2003.

### Scope of Investigation

For purposes of this investigation, PC strand is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in

<sup>1</sup> The petitioners in this investigation are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.

prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Period of Investigation

The period of investigation (POI) is January 1, 2002, through December 31, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, January 2003) involving imports from a market economy, and is in accordance with the Department's regulations. See 19 CFR 351.204(b)(1).

#### Critical Circumstances

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination of this investigation, the Department found that critical circumstances did not exist because there was no reasonable basis to impute knowledge of dumping with respect to imports of PC strand from Thailand, nor was there a history of dumping of PC strand from Thailand. See *Preliminary Determination* at 42377; see also, *Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from Thailand Preliminary Negative Determination of Critical Circumstances Memorandum from Salim Bhabhrawala and Carol Henninger to Gary Taverman*, July 10, 2003, on file in the CRU. The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute knowledge of dumping. See *e.g.*, *Preliminary*

*Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997). Because the final dumping margin for the respondent is less than 15 percent, we continue to find there is no reasonable basis to impute knowledge of dumping with respect to these imports from Thailand. As noted in the preliminary determination, it is the Department's practice to conduct its critical circumstances analysis of companies in the "All Others" category based on the experience of the investigated company. Because there is no history of dumping of PC strand from Thailand and the final dumping margin for SIW is less than 15 percent, we are determining that critical circumstances do not exist for SIW, as well as all other producers/exporters covered by the "All Others" rate. Accordingly, we find that critical circumstances do not exist for imports of PC strand from Thailand.

#### Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by SIW. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties to this proceeding are listed in the appendix to this notice and addressed in the Memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary, to James J. Jochum, Assistant Secretary for Import Administration, RE: Issues and Decision Memorandum for the Final Determination of the Investigation of Prestressed Concrete Steel Wire Strand from Thailand (Decision Memorandum), dated December 1, 2003, and are hereby adopted by this notice. The Decision Memorandum is on file in room B-099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at [www.ita.doc.gov/import\\_admin/records/frn](http://www.ita.doc.gov/import_admin/records/frn). The paper and electronic versions of the Decision Memorandum are identical in content.

#### Changes Since The Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination calculation

methodologies in calculating the final dumping margins in this proceeding. These adjustments are discussed in the Decision Memorandum for this investigation.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Patrol (CBP) to continue to suspend liquidation of all entries of PC strand exported from Thailand, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for Thailand:

Manufacturer/exporter	Margin (percent)
Siam Industrial Wire Co., Ltd. ....	12.99
All Others .....	12.99

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Canada are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 1, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

## APPENDIX

### Issues Covered in Decision Memorandum

*Comment 1:* Allocation of Conversion Costs

*Comment 2:* Treatment of SIW's Home Market Back-to-Back Sales

*Comment 3:* Whether to Allow a Constructed Export Price Offset

*Comment 4:* Corrections to SIW's U.S. sales

*Comment 5:* Corrections to SIW's Home Market Sales

*Comment 6:* Corrections to Errors Contained in the Preliminary Margin Calculation Program

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-831]

### Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final determination of sales at less than fair value and negative final determination of critical circumstances.

**EFFECTIVE DATE:** December 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** James Kemp or Daniel O'Brien at (202) 482-5346 or (202) 482-1376, respectively; AD/CVD Enforcement Group II Office 5, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### Final Determination

We determine that prestressed concrete steel wire strand (PC strand) from Mexico is being sold, or is likely to be sold, in the United States at less

than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice. In addition, we determine that critical circumstances do not exist with respect to PC strand produced and exported by either Cablesa S.A. de C.V. (Cablesa) or Aceros Camesa S.A. de C.V. (Camesa) as well as all other producers/exporters.

#### Case History

The preliminary determination in this investigation was published on July 17, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 42373, 42378 (July 17, 2003) (*Preliminary Determination*). Since the publication of the preliminary determination, the following events have occurred:

In August and September 2003, the Department of Commerce (the Department) verified the questionnaire responses submitted by Camesa and Cablesa. The sales and cost verification reports were issued in October 2003. On October 22, 2003, we received case briefs from the petitioners<sup>1</sup> and Cablesa. On October 28, 2003, we received rebuttal briefs from the petitioners, Camesa, and Cablesa. As the only request for a public hearing was made by the petitioners, and that request was subsequently withdrawn, a public hearing was not held.

#### Scope of Investigation

For purposes of this investigation, PC strand is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

<sup>1</sup> The petitioners in this investigation are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.

#### Period of Investigation

The period of investigation (POI) is January 1, 2002, through December 31, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, January 2003) and is in accordance with our regulations. *See* 19 CFR 351.204(b)(1).

#### Class or Kind

In the preliminary determination, we found that uncovered and covered PC strand constituted the same class or kind of merchandise. Since the preliminary determination, no parties commented on this finding. Therefore, for the final determination, we continue to find that uncovered and covered PC strand constitute the same class or kind of merchandise for the reasons outlined in the *Memorandum from James Kemp and Salim Bhabhrawala, to Holly Kuga, Acting Deputy Assistant Secretary, Regarding Consideration of Scope Exclusion Request and Class or Kind* (July 10, 2003) and the *Preliminary Determination*.

#### Facts Available

In the preliminary determination, we based the dumping margin for Cablesa on adverse facts available pursuant to sections 776(a) and 776(b) of the Act. The use of adverse facts available was warranted for Cablesa because the Department found that the cost information on the record for Cablesa was so incomplete that it could not serve as a reliable basis for reaching a determination. *See Preliminary Determination*.

Since the preliminary determination, Cablesa has responded to two supplemental questionnaires regarding its cost response. However, Cablesa's cost response could not be verified. Therefore, we have determined that the cost information on the record for Cablesa is unreliable and that Cablesa has failed to cooperate by not acting to the best of its ability. As a result, the use of adverse facts available is warranted with respect to Cablesa. *See Memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary, to James J. Jochum, Assistant Secretary for Import Administration, RE: Issues and Decision Memorandum for the Final Determination of the Investigation of Prestressed Concrete Steel Wire Strand from Mexico (Decision Memorandum)*, dated December 1, 2003, at Comment 6 for a discussion of the deficiencies of Cablesa's cost response and the Department's use of adverse facts available.

Our rejection of Cablesa's cost information renders impossible any