

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

price-to-price or price-to-constructed value comparisons. This is consistent with Department practice. See, e.g., *Notice of Final Determination of Sales at Less than Fair Value: Grain-Oriented Electrical Steel from Italy*, 59 FR 33952 (July 1, 1994), *Notice of Final Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Venezuela*, 67 FR 62119 (October 3, 2002), and *Notice of Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 FR 76, 77–78 (January 4, 1999).

Accordingly, we have assigned to Cablesa the highest margin stated in the notice of initiation for Mexico. See *Notice of Initiation of Antidumping Duty Investigations: Prestressed Concrete Steel Wire Strand From Brazil, India, the Republic of Korea, Mexico, and Thailand*, 68 FR 9050 (February 27, 2003). We corroborated this margin in the preliminary determination and we continue to find this margin corroborated, pursuant to section 776(c) of the Act. See Memoranda regarding corroboration of data contained in the petition for assigning facts available rates, dated July 10, 2003.

#### Critical Circumstances

For the final determination, based on company-specific shipment data submitted to the Department, we have found that critical circumstances do not exist for either Camesa or Cablesa because there were no massive imports with respect to either respondent. We have also found that critical circumstances do not exist for any companies in the “All Others” category. See *Memorandum from Daniel O’Brien, International Trade Compliance Analyst, to Gary Taverman, Director, Office 5, Re: Final Negative Determination of Critical Circumstances and Decision Memorandum at Comment 8*. See, also, *Memorandum from Daniel O’Brien and Jim Kemp, International Trade Compliance Analysts, to Gary Taverman, Director, Office 5, Re: Verification of the Sales Response of Cablesa S.A. de C.V. in the Investigation of Prestressed Concrete Steel Wire Strand from Mexico* dated October 7, 2003, at 22–23.

#### Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by Camesa and Cablesa. 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 Decision Memorandum 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 our analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margin for Camesa. 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 Customs and Border Patrol (CBP) to continue to suspend liquidation of all entries of PC strand exported from Mexico, that are entered, or withdrawn from warehouse, for consumption on or after the date 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. Because the Department now determines that critical circumstances do not exist for either respondent, the retroactive suspension of liquidation ordered at the preliminary determination is terminated. CBP shall return all bonds and/or cash deposits posted for entries of PC strand produced and exported by Cablesa during the critical circumstances period (i.e. April 18, 2003, to July 17, 2003).

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

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Camesa .....          | 62.78            |
| Cablesa .....         | 77.20            |
| All Others .....      | 62.78            |

#### 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 Mexico 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

##### I. ISSUES SPECIFIC TO ACEROS CAMESA

*Comment 1:* Unverified Movement Expenses

*Comment 2:* Indirect Selling Expenses

*Comment 3:* Understatement of Cost of Manufacturing

*Comment 4:* General and Administrative Expense

*Comment 5:* Finance Expense

##### II. ISSUES SPECIFIC TO CABLESA

*Comment 6:* Reliability of Cost Information

*Comment 7:* Adjustments to Cost Information

*Comment 8:* Critical Circumstances new file

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