| Producer/manufacturer/exporter | Weighted-average margin (percent) |
|---|---|
| CBCC | 18.71 |
| Minasligas | 0.00 |
| Eletrosilex | 25.46 |
| RIMA | 31.60 |

The Department shall determine, and the U. S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of amended final results of review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above will be the rates published in the final results of review for the antidumping duty order on silicon metal from Brazil for the period July 1, 1994 through June 30, 1995 (*see Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part* 62 FR 1970 (January 14, 1997) (*Fourth Review Final Results*); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these reviews, the cash deposit rate will continue to be 91.06 percent, the ''all others'' rate established in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil,* 56 FR 26977 (June 12, 1991).

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 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.

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 section 353.34(d) of the Department's regulations. 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.

These amended final results of review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. § 1675(a)(1)) and section 353.28(c) of the Department's regulations.

Dated: September 2, 1997.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 97–23853 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–428–820]**

### Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request from the respondent, Mannesmannroehren-Werke AG (''MRW'') and Mannesmann Pipe & Steel Corporation (''MPS'') (collectively, ''Mannesmann''), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Germany. This review covers the above manufacturer/exporter of the subject merchandise to the United States. The period of review (POR) is January 27, 1995, through July 31, 1996.

We preliminarily determine the dumping margin for Mannesmann to be 28.69 percent during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding should also submit with their arguments (1) a statement of the issues, and (2) a brief summary of the arguments.

**EFFECTIVE DATE:** September 9, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nancy Decker or Linda Ludwig, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1324 or (202) 482–3833, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353, as amended by the Department's interim regulations (April 1, 1997). Where appropriate, we have cited the Department's new regulations, codified at 19 CFR part 351 (May 19, 1997—62 FR 27296). While not binding on this review, the new regulations serve as a restatement of the Department's policies.

### Background

On June 19, 1995, the Department published in the **Federal Register** (60 Fed. Reg. 31974) the final affirmative antidumping duty determination on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Germany. We published an antidumping duty order and amended final determination on August 3, 1995 (60 FR 39704). On August 12, 1996, the Department published the Opportunity to Request an Administrative Review of this order for the period January 27, 1995 through July 31, 1996 (61 FR 41768). The Department received a request for an administrative review of Mannesmann's exports from Mannesmann itself, a producer/exporter of the subject merchandise. We published a notice of initiation of the review on September 17, 1996 (61 FR 48882).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 5, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case. *See*

*Extension of Time Limit for Antidumping Duty Administrative Review,* 62 FR 10025 (March 5, 1997).

The Department is conducting this review in accordance with section 751(a) of the Act.

**Scope of the Review**

The scope of this review includes small diameter seamless carbon and alloy standard, line and pressure pipes (seamless pipes) produced to the American Society for Testing and Materials (ASTM) standards A–335, A–106, A–53 and American Petroleum Institute (API) standard API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this review also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this review, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to this review are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this review, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM standard A–106 may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent ASTM A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple-certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple-certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application 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 review 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 review. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–335, ASTM A–106, ASTM A–53, or API 5L standards shall be covered if used in a standard, line or pressure 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 generally 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 review.

Specifically excluded from this review are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–335, ASTM A–106, ASTM A–53 or API 5L specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of this review, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this review 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 review is dispositive.

**Verification**

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports, the public versions of which are available at the Department of Commerce, in Central Records Unit (CRU), Room B099.

**Transactions Reviewed**

The Department determined the normal value (NV) and constructed export price (CEP) of each sale to the first unaffiliated customer in the United States during the POR.

**Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the ''Scope of the Review'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire.

**Fair Value Comparisons**

To determine whether sales of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe by Mannesmann to the United States were made at less than fair value, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

**Date of Sale**

The Department's current policy is normally to use the date of invoice as recorded in the exporter or producer's records kept in the ordinary course of business as the date of sale. However, we may use a date other than the date of invoice where appropriate.

For Mannesmann's home-market sales, the company reported and we used invoice date (which is also shipment date) as the date of sale. For Mannesmann's U.S. sales, the company reported the date of order confirmation as the date of sale. In the Department's September 18, 1996 questionnaire to Mannesmann at Appendix I, the Department stated that in no case could the date of sale be later than the date of shipment. Because the date of shipment for Mannesmann's U.S. sales was in all cases earlier than the date of invoice (and thus not reported as date of sale), we have used the shipment date of U.S. sales as date of sale. Since there can be several months between order confirmation and shipment, using shipment date in both markets puts home market and U.S. sales on the same basis for date of sale.

**Constructed Export Price**

We have preliminarily determined that Mannesmann's U.S. sales reported as export price (EP) sales were CEP sales. Our determination is based on the evidence in the record of this review establishing that U.S. sales were made through Mannesmann's affiliated sales agent, MPS, who, as shown below, was more than a mere conduit, performing only clerical functions, for the producer/exporter.

The Department determines U.S. sales through affiliated sales agents to be EP only if: (1) The merchandise was shipped directly to the unaffiliated buyer, without being introduced into the affiliated selling agent's inventory; (2) this procedure is the customary sales channel between the parties; and (3) the affiliated selling agent located in the United States acts only as a processor of documentation and a communication link between the foreign producer and the unaffiliated buyer. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Duty Administrative Review,* 62 FR 18390, 18389–18391 (April 15, 1997); *Notice of Final Determination of Sales at Less than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany,* 61 FR 38166, 38174–5 (July 23, 1996); *Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review,* 61 FR 18547, 18551 (April 26, 1996). This test has been approved by the CIT. *Independent Radionic Workers of America* v. *United States,* Slip Op. 95–45 at 2–3 (CIT 1995); *PQ Corp.* v. *United States,* 652 F. Supp. 724, 733–35 (CIT 1987).

In applying the first two criteria to the present review, we found that for the majority of sales, the merchandise was shipped directly to the unaffiliated U.S. customer without being introduced into MPS's inventory. We found that MPS occasionally buys for its own inventory, but we did not find any subject merchandise purchased for inventory during the POR. In addition, several sales were warehoused upon arrival in the U.S. when the original customer canceled its order. MPS could not find a new customer and subsequently sold the merchandise to the original customer. The Department verified that the terms of sale during the POR were CIF, duty paid to a port of entry near the customer's plant, and that MPS did not take physical possession of the shipment, except in the unusual instance described above.

Concerning the third criterion, however, the Department has determined that MPS did act as more than a processor of sales documents and a communications link between the unaffiliated U.S. customer and MRW, the producer in Germany. Although the MRW participates with MPS in meetings with U.S. customers once or twice a year and claims to reserve the right to approve all orders, MPS negotiates each of the sales with the customers, aiming to get the best price the market will allow. MPS admitted it had a small say in the price negotiated but claimed that it is very limited. The Department determined that MPS essentially negotiates all sales. We found no evidence to support Mannesmann's claim that MRW approved of or knew of the final prices on individual sales to U.S. customers. To the contrary, regardless of whether MRW has final approval rights, the record indicated that MPS has significant involvement in the sales process. Further, while MPS admitted that it is allowed to make a small profit on the U.S. sales, we found the price differential between the price from the German sales agent (Mannesmann Handel, a go-between for MRW and MPS) to MPS and the price from MPS to the customer to be unexplained by the small commissions or profits referenced by MPS at verification, nor by the U.S. duties and cash deposits on antidumping duties, which MPS pays as importer of record (*see* Sales Verification Report). Therefore, based on an analysis of all the facts, we find that the selling activities of MPS extend beyond those of a processor of documents or a communications link.

We calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, international freight, marine insurance, other transportation expenses, U.S. Customs duties, warranties, credit expense, and other selling expenses that were associated with economic activities occurring in the United States. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Based on our verification of Mannesmann's sales responses, we made adjustments to credit, quantity, gross unit price, shipment date, and sales date on certain sales, and we also increased other transportation expenses on certain sales to account for unreported unloading expenses. We also rejected as unverifiable reported U.S.

duty, foreign inland freight and international freight. Accordingly, pursuant to section 776(a) of the Act, we used partial facts available. For U.S. duty and foreign inland freight, we used the highest reported U.S. duty and foreign inland freight, respectively, on any individual U.S. sale. For international freight, we added the highest differential between the actual and the reported international freight (from the sales examined at verification) to reported international freight on every U.S. sale.

Mannesmann's response indicated that U.S. credit expense was calculated using the U.S. sales agent's interest rate on inter-company loans from its parent. We compared this to the U.S. prime rate. Since the company did not indicate that it has external borrowings and the prime rate was always higher than the inter-company rate, we recalculated credit expense using the U.S. prime rate.

At verification, the respondent indicated that it had not reported any U.S. sales of ASTM A–333 (although it had reported home market sales of this specification) to the Department because it believed the scope definitively excluded this specification (as low temperature service steels). We note that the scope discussion indicates A–333 (along with several other specifications) is covered by the scope of this review if it is used in a standard, line, or pressure pipe application. The respondent did not address the applications of the A–333 sales during verification. Therefore, as facts available, we are assuming all unreported low temperature steel sales (sourced from the German producer) by MPS to be A–333 and, therefore, subject merchandise. We summed the total quantity of these sales from verification documents and applied Mannesmann's rate from the original investigation as facts otherwise available (*see* ''Use of Facts Otherwise Available'' section below).

**Normal Value**

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a ''fair'' comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, at the same level of trade as the export price. *See* ''Level of Trade'' section below.

We excluded from our analysis negative quantity observations reported in the database, while leaving in the database the positive quantity observations on the same orders with the negative quantity observations. We found that the products in question would not likely be used in matching to U.S. sales. We also excluded from our analysis NV sales to affiliated home market customers where the weighted-average sales prices to the affiliated parties were less than 99.5 percent of the weighted-average sales prices to unaffiliated parties. *See Usinor Sacilor* v. *United States*, 872 F. Supp. 1000, 1004 (CIT 1994).

On May 5, 1997, Mannesmann requested to be excused from reporting all ''downstream sales'' (sales by affiliated resellers to unaffiliated customers). It based its request on the fact that the sales to the affiliated resellers would pass the arm's-length test or would not be used in the Department's analysis. On May 14, 1997, the Department informed Mannesmann that, based on Mannesmann's portrayal of the information submitted, it did not have to report downstream sales at that time. We preliminarily find that sales to one affiliated reseller pass the arm's-length test, while sales to the other affiliated resellers do not pass the arm's-length test but would not be used for matching purposes.

Where appropriate, we deducted credit expenses, warranties, packing, and certain discounts, and we added interest revenue. We rejected as unverifiable inland freight, ''other adjustments,'' and certain rebates and discounts (*see* Sales Verification Report). We denied deductions from the reported price for each of these items.

The respondent reported credit expense based on a POR-average days outstanding for receivables (all customers) on all sales (including non-subject merchandise), since it indicated that it could only manually provide payment date information on all sales. We compared this overall average days of outstanding payment to the actual days payment was outstanding on the sales examined at verification. We found the actual days between shipment and payment to be consistently lower than the average days used. Therefore, we calculated a simple average days outstanding using actual shipment and payment dates from the sales examined at verification, and we recalculated credit expense using this average figure.

We found that respondent paid commissions in the home market on the foreign like product to affiliated parties. Since there is no benchmark which can be used to determine whether affiliated party commissions are arm's-length values (*i.e.*, the producer does not use an unaffiliated selling agent for sales of the foreign like product), we have assumed that affiliated party commissions were not paid on an arm's-length basis. As a result, we did not make a circumstance-of-sale adjustment for affiliated party commissions in the home market.

For comparison to CEP, we increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

**Level of Trade**

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the URAA, to the extent practicable, the Department will calculate normal values based on sales at the same level of trade as the U.S. sales (either EP or CEP). When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sales, the Department may compare sales in the U.S. and foreign markets at different levels of trade, and adjust NV if appropriate. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive selling, general and administrative expenses, and profit.

As the Department explained in *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 17148, 17156 (April 9, 1997) (''*Cement From Mexico*''), for both EP and CEP, the relevant transaction for the level of trade analysis is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the EP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses specified in section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by, or on behalf of, the affiliated importer. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade

for the CEP than for the later resale (which we use for the starting price).

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with the good being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, retailer or end-user are commonly used by respondents to describe level of trade, but without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed customer categorization levels. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the level of trade. Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment only if the difference in level of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. *See Granular Polytetrafluorethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 26283, 26285 (May 13, 1997); *Cement From Mexico* at 17156. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average percentage difference between these net prices to adjust NV when the level of trade of NV is different from that of the export sale. If there is a pattern of no price differences, then the difference in level of trade does not have a price effect and, therefore, no adjustment is necessary.

Mannesmann sold to end-users and distributors in the U.S. market and in the home market. Mannesmann claimed that sales to end-users and distributors were at separate levels of trade. While Mannesmann's questionnaire response indicated that it provided higher levels of support to end-users than to distributors, Mannesmann did not explain what distinguished high from low support or support these claims at verification. At verification, when asked about levels of trade, Mannesmann merely provided an MWR organization chart, which showed that there was a different sales group for sales to end-users than for sales to distributors. This chart did not indicate a separate subdivision for U.S. sales. The respondent provided no support or information, as requested in the sales verification outline, regarding differences in selling functions for sales to end-users versus distributors and between sales to its home market customers and the CEP level of trade. Thus, our analysis of the information in this case leads us to conclude that sales within each market and between markets are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market are made at the same level of trade. Therefore, all price comparisons are at the same level of trade and no adjustment pursuant to section 773(a)(7) is warranted.

**Use of Facts Otherwise Available**

We preliminarily determine, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for certain aspects of Mannesmann's response as described in the ''Constructed Export Price'' and ''Normal Value'' sections above. We find that we were unable to verify certain information and that the respondent did not provide the information necessary to make a decision on whether certain unreported U.S. sales should have been reported under the scope of this review.

Furthermore, we determine that, pursuant to section 776(b) of the Act, it is appropriate to make an inference adverse to the interests of this company because it failed to cooperate by not acting to the best of its ability in providing the Department with information. We found that Mannesmann did not act to the best of its ability by not providing information on the uses of certain U.S. sales (A–333 sales). Also, Mannesmann did not provide us with the majority of sales trace verification packages until late on the final day of the home market verification. These packages did not include any supporting documentation for numerous adjustments (as discussed under the ''Normal Value'' section above). Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. In this case, as described above, we have used as facts available Mannesmann's rate from the original investigation, which was based on information from the petition. Although we have not fully corroborated this information in accordance with section 776 (c) of the Act, we will do so for the final results.

**Cost of Production Analysis**

Petitioners alleged, on December 20, 1996, that Mannesmann sold small diameter circular seamless carbon and alloy steel standard, line and pressure pipe in the home market at prices below cost of production (COP). Based on this allegation, in accordance with Section 773(b) of the Act, the Department determined, on January 31, 1997, that it had reasonable grounds to believe or suspect that Mannesmann had sold the subject merchandise in the home market at prices below COP. *See* Letter to Mannesmann and Decision Memorandum (January 31, 1997). We therefore initiated a cost investigation with regard to Mannesmann in order to determine whether the respondent made home-market sales at prices below its COP within the meaning of section 773(b) of the Act. Before making any fair value comparisons, we conducted the COP analysis described below.

**A. Calculation of COP**

We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. Based on our verification of Mannesmann's cost response, we adjusted Mannesmann's reported COP to reflect certain adjustments to cost of manufacturing and interest expense as described below. We also have denied a claimed start-up adjustment (as described below) and used reported costs without the start-up adjustment.

*1. Major Inputs*

Mannesmann purchased the majority of its major inputs, billet rounds, for seamless pipe, from an affiliated party.

Sections 773(f)(2) and (3) of the Act specify the treatment of transactions between affiliated parties for purposes of reporting cost data (for use in determining both COP and CV) to the Department. Section 773(f)(2) indicates that the Department may disregard such transactions if the amount representing that element (the transfer price) does not fairly reflect the amount usually reflected (typically the market price) in the market under consideration (where the production takes place). Under these circumstances, the Department may rely on the market price to value inputs purchased from affiliated parties.

Section 773(f)(3) indicates that, if transactions between affiliated parties involve a major input, then the Department may value the major input based on the COP if the cost is greater than the amount (higher of transfer price or market price) that would be determined under 773(f)(2). Section 773(f)(3) applies if the Department ''has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of such input.'' The Department generally finds that such ''reasonable grounds'' exist where it has initiated a COP investigation of the subject merchandise.

Because a COP investigation is being conducted in this case, the Department requested in its supplemental Section D questionnaire that Mannesmann provide cost of production information for the billet rounds. That cost information was provided by the affiliated party and was verified. In accordance with sections 773(f) (2) and (3), we used the highest of transfer price, cost of production or market value to value the billets. To determine the market value, we compared information on one grade of billets which was obtained from both affiliated and unaffiliated parties during the POR. We applied the percentage price increase paid to unaffiliated parties to affiliated party purchases to reflect market value (*see* Department's September 2, 1997 Analysis Memorandum).

*2. Financial (Interest) Expense*

In calculating net financial expense in its response, respondent subtracted what it claimed to be financial income from short-term sources. At verification, however, respondent failed to provide support that the income was, in fact, short term in nature (*see* Cost Verification Report). The Department considers financial income from long-term investments as not being related to the production activities of the company and, therefore, does not allow financial income from long-term investments as offsets to financial expense in calculating COP and CV. The Department only allows financial expense to be offset by interest income from short-term sources (*i.e.,* working capital). We have therefore disallowed respondent's claimed offsets.

*3. Start-Up Costs*

Respondent claimed a start-up adjustment for operations at the Zeithain plant during the first half of 1996. Specifically, these start-up operations were associated with the complete rebuilding and modernization of certain production equipment. Respondent claims that it is eligible for this adjustment because the project represented a major change in the production process and because output was adversely affected by the start-up operations in a manner unrelated to the pressures of market demand and seasonal factors.

Under section 773(f)(1)(C)(ii) of the Act, Commerce may make an adjustment for start-up costs only if the following two conditions are satisfied: (1) A company is using new production facilities or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production.

The SAA at 166 states that ''new production facilities'' includes the substantially complete retooling of an existing plant. Substantially complete retooling involves the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery. The production machinery which was replaced represents only one process in multiple processes according to Mannesmann's internal documentation describing the production process (*see* Department's September 2, 1997 Analysis Memorandum). Thus, it does not meet the requirement that nearly all production machinery be replaced, and does not represent a substantial portion of the overall assets in the facility.

Furthermore, Mannesmann did not demonstrate that production levels were limited by technical factors associated with the initial phase of commercial production. Company records indicate that production and manufacturing activity levels were substantially the same during the January to June 1995 time period as during the alleged start-up period of January to June 1996.

Accordingly, we reject Mannesmann's claim for a start-up adjustment because it did not demonstrate that they were using new production facilities, including substantially complete retooling; nor did they demonstrate that production levels were limited by technical factors associated with the initial phase of commercial production.

**B. Test of Home Market Prices**

We used the respondent's weighted-average COP, as adjusted (see above), for the period January 1, 1995 to July 31, 1996. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) Within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts.

**C. Results of COP Test**

Pursuant to section 773(b)(2)(C), where less than 20 percent of Mannesmann's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. We also determined that such sales were also not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, and therefore, we disregarded the below-cost sales. Where all contemporaneous sales of a specific comparison product were at prices below the COP, we calculated NV based on CV.

**D. Calculation of CV**

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Mannesmann's cost of materials, fabrication, SG&A, U.S. packing costs, and interest expenses as reported and a calculated profit. As noted above, we recalculated Mannesmann's cost of manufacturing, SG&A, and interest expense based on our verification results. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the

ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

**Currency Conversion**

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

**Preliminary Results of the Review**

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

| Manufacturer/exporter | Period | Margin (percent) |
|---|---|---|
| Mannesmannroehren-Werke AG | 1/27/95–7/31/96 | 28.69 |

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in those briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

The following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 57.72 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: September 2, 1997.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 97–23856 Filed 9–8–97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–054, A–588–604]**

### Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Reviews.

**SUMMARY:** In response to requests by the petitioner and one respondent, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers two manufacturers/exporters and two resellers/exporters of the subject merchandise to the United States during the period October 1, 1995 through September 30, 1996. The review of the A–588–604 order covers three manufacturers/exporters and two resellers/exporters, and the period October 1, 1995 through September 30, 1996.

We preliminarily determine that sales of TRBs have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative reviews, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) A brief summary of the argument.

**EFFECTIVE DATE:** September 9, 1997.

**FOR FURTHER INFORMATION CONTACT:** Charles Ranado, Stephanie Arthur, or Valerie Owenby, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3518, 6312, or 0145, respectively.

**APPLICABLE STATUTE AND REGULATIONS:** Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the