

steel pipe from the Republic of Korea (see *Notice of Antidumping 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 Welded Non-Alloy Steel Pipe from Korea* (57 FR 49453, November 2, 1992)).

EFFECTIVE DATE: February 27, 2001.

FOR FURTHER INFORMATION CONTACT:

Suresh Maniam or Sibel Oyman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0176 and (202) 482-1174, respectively.

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department") regulations are to 19 CFR Part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2001, a respondent in this proceeding, Hyundai Pipe Co., Ltd. ("HDP") notified the Department that as of February 1, 2001, its corporate name would change to Hyundai Steel Company ("Hyundai Hysco"). HDP stated that the corporate structure would not change and that all owners, management, production facilities, suppliers and customers will stay the same. HDP provided documentation to support this claim, consisting of an official announcement and a press article noting the name change. On February 9, 2001, HDP submitted the following supplementary information documenting the name change: a public announcement; minutes of the shareholders' meeting; a relevant portion from its draft 2000 financial statements; new business registration certificates for the Seoul office, head office/pipe production facility, and cold-rolling mill; a list of identical pre- and post-name change organizational charts and articles of association; a list of identical pre- and post-name board of directors; and a list of identical pre- and post-name change suppliers and customers. On February 15, 2001, HDP further confirmed that its change in name was not a result of a merger,

acquisition, or change in corporate structure.

The information submitted by Hyundai shows changed circumstances sufficient to warrant a review. Therefore, we are initiating a changed circumstances administrative review pursuant to section 751(b)(1) of the Act to determine whether entries naming Hyundai Hysco as manufacturer or exporter should receive the cash deposit rate currently applied to HDP.

Scope of the Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, 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. 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 as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order.

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of this review except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. In accordance with the Department's *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), pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A-53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines is outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States ("HTSUS") 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 HTSUS subheadings are provided for convenience and Customs Service purposes, our written description of the scope of this proceeding is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order.

HDP has notified the Department that its corporate name has changed and that no changes have occurred with respect to ownership, management, production facilities, suppliers or customers. We therefore find good cause to conduct a changed circumstances review. See 19 CFR 351.216(c). Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(b) and 351.221(b)(1), we are initiating a changed circumstances review based upon the information contained in HDP's submissions.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances antidumping duty administrative review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. The Department will issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is in accordance with section 751(b)(1) of the Act.

Dated: February 20, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration, Group 1.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-001]

Potassium Permanganate From the People's Republic of China: 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 of potassium permanganate from the People's Republic of China.

SUMMARY: In response to a timely request for an administrative review submitted by the respondent, Provincial Chemicals Import & Export Corporation ("Guizhou"), and its supplier of potassium permanganate, the Zunyi Chemical Factory ("Zunyi"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China ("PRC"). The period of review ("POR") is January 1, 1999, through December 31, 1999. The Department has preliminarily determined that the sale of subject merchandise during the POR was made below normal value ("NV"). If the preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service ("Customs") to assess antidumping duties on the entry.

The Department invites interested parties to comment on the preliminary results.

EFFECTIVE DATE: February 27, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Howard Smith, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4474 and (202) 482-5193, respectively.

SUPPLEMENTARY INFORMATION:

The 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 effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations at 19 CFR part 351 (April 1999).

Background

On January 31, 1984, the Department published in the **Federal Register** (49 FR 3897) the antidumping duty order on potassium permanganate from the PRC. On January 13, 2000, the Department published in the **Federal Register** (65 FR 2114) a notice of opportunity to request administrative reviews of this antidumping duty order. On January 14, 2000, one exporter and one producer of potassium permanganate, Guizhou and

Zunyi, respectively, requested that the Department conduct an administrative review of Guizhou's exports of the subject merchandise. The Department published a notice of initiation of this review on February 28, 2000 (65 FR 10466).

On March 13, 2000, the Department issued its antidumping questionnaire to Guizhou. Guizhou responded to the Department's questionnaire during May 2000, and submitted responses to the Department's June and August, 2000 supplemental questionnaires during July and August, 2000, respectively. On August 1, 2000, the petitioner, Carus Chemical Company ("Carus" or "the petitioner"), submitted publicly available information and comments for consideration in valuing the factors of production used in our NV calculations. On August 31, 2000, the petitioner requested that the Department rescind the review because the sale under review is not *bona fide*. For details regarding *bona fide* sale issue and the request to rescind the review, see the "Recision Request and *Bona Fide* Sale Issue" section of this notice below. On January 11, 2001, Guizhou submitted publicly available information and comments regarding factor values.

Pursuant to section 751(a)(3)(A) of the Act, the Department has determined that it is not practicable to complete this review within 245 days after the last day of the anniversary month of the order, and thus, has extended the time limit for the preliminary results until January 30, 2001. See *Potassium Permanganate From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 54227, (September 7, 2000).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. During the review period, potassium permanganate was classifiable under item 2841.60.0010 of the Harmonized Tariff Schedule ("HTS"). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Rescission Request and Bona Fide Sale Issue

The petitioner claims that the only sale under review is not *bona fide*, and thus, the review should be rescinded. This claim is primarily based upon the

petitioner's allegation that the sale involved a fraudulent and illegal shipping scheme. On November 3, 2000, the Department requested that interested parties comment on discrepancies involving certain shipping documents and submit information regarding the shipment of the subject merchandise to the United States. The Department received parties' submissions regarding the shipment during November and December, 2000, and January 2001. After an examination of the record, we do not find sufficient evidence indicating that the sale under review is not a *bona fide* sale, and thus, preliminarily, we are not rescinding this administrative review. For a full discussion of this issue, see the memorandum: *Bona Fide Sale and Rescission of Review*, dated January 30, 2001, the public version of which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building ("CRU-Public File").

Verification

As provided in section 782(i) of the Act, we verified sales and factor information provided by Guizhou and its supplier of potassium permanganate, Zunyi, using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of relevant source documentation as exhibits. Our verification findings are detailed in the report regarding the verification of Guizhou and Zunyi dated January 30, 2001, the public version of which is on file in the CRU-Public File.

Separate Rates Determination

To establish whether a company operating in a non-market economy ("NME") is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). Under this test, companies in a NME country are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. See *Sparklers*, 56 FR at 20589. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export

activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *Id.* *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *see also Sparklers* 56 FR at 20589.

It is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of any separate rate the respondent received in the past. *See Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant review, Guizhou submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in this review by Guizhou includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the company's operations and selection of management. This evidence is consistent with the Department's findings in previous reviews and supports a finding that control of companies in the PRC has been decentralized and that the respondent company's operations are, in fact, autonomous from the PRC government. Therefore, we preliminarily find that Guizhou is entitled to a separate rate.

Fair Value Comparisons

To determine whether the respondent's sale of subject merchandise was made at less than fair value, we compared the export price to the normal value, as described in the *Export Price* and *Normal Value* sections of this notice, below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated an

export price ("EP") for the sale to the United States because the subject merchandise was sold directly to an unaffiliated customer in the United States prior to importation and constructed export price methodology was not otherwise indicated. We made deductions from the sales price for foreign inland freight, foreign brokerage and handling, and domestic inland insurance. Each of these services was provided by a NME vendor, and thus, we based the deductions for these movement charges on surrogate values.

We valued foreign brokerage and handling using Indian values that were reported in the public version of the questionnaire response placed on the record in *Certain Stainless Steel Wire Rod from India; Preliminary Results of Antidumping Duty Administrative and New Shipper Review*, 63 FR 48184 (September 9, 1998) ("*India Wire Rod*"). We valued domestic inland insurance using the Department's recently revised Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the PRC (available on the Department's website). We identify the source used to value foreign inland freight in the *Normal Value* section of this notice, below. We accounted for inflation or deflation between the time period that the values for movement charges were in effect and the POR, as described below in the *Normal Value* section of this notice.

Normal Value

For exports from NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production ("FOP") methodology if: (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Section 351.408 of the Department's regulations sets forth the methodology used by the Department to calculate the NV of merchandise exported from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as an NME. Since none of the parties to this proceeding contested such treatment, we calculated NV in accordance with section 773(c)(3) and (4) of the Act and section 351.408(c) of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing potassium permanganate include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed;

and (4) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOP, to the extent possible, using the costs of the FOP in a market economy that is (1) at a level of economic development comparable to the PRC, and (2) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. *See Memorandum From Jeff May, Director, Office of Policy, to Holly Kuga, Senior Office Director, AD/CVD Enforcement*, dated March 20, 2000, which is on file in the CRU-Public File.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOP using surrogate values that were in effect during the POR. However, when we were unable to obtain surrogate values in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the wholesale price indices ("WPI") for India as published in the International Monetary Fund's ("IMF") publication, *International Financial Statistics*. We valued the FOP as follows:

(1) We valued the direct materials, potassium hydroxide and manganese dioxide used to produce potassium permanganate using price quotes from 1999 issues of *Chemical Weekly*, an Indian publication that lists chemical prices. We valued the direct material limestone using the rupee per metric ton or rupee per kilogram value of imports that entered India during the months of January, April, and May 1999, as published in the *Monthly Statistics of the Foreign Trade of India*, Volume II—Imports ("*Indian Import Statistics*").¹

(2) We valued the material, caustic soda, used to treat (soften) water, using price quotes from 1999 issues of *Chemical Weekly*. We valued the materials lime and alum, used to treat (soften) water, using the rupee per metric ton or rupee per kilogram value of imports that entered India during the months of April 1998 through January 1999 for alum, and January, April, and May 1999 for lime, as published in *Indian Import Statistics*. We adjusted

¹ For each of the FOP, we were able to find POR Indian import statistics only for the months January, April, and May, 1999.

the value for alum to account for inflation. These materials were not reported in respondent's submission but were identified at verification (see *Verification Report*).

(3) We valued coal using the rupee per metric ton or rupee per kilogram value of imports that entered India during the months of January, April, and May 1999, as published in *Indian Import Statistics*.

(4) We valued electricity using the 1997 Indian electricity prices for industrial use as reported by the International Energy Agency ("IEA"), as adjusted for inflation. This rate is available in the IEA publication *Energy, Prices and Taxes, 2nd Quarter 2000*.

(5) We valued labor using a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). This rate is identified on the Import Administration's web site. See <http://ia.ita.doc.gov/wages>.

(6) We derived ratios for factory overhead, selling, general and administrative ("SG&A") expenses, and profit using information reported for 1992–1993 in the *Reserve Bank of India Bulletin* of January 1997. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

(7) We valued packing materials, including polyethylene plastic bags, nylon wires, and iron drums using the rupee per metric ton or rupee per kilogram value of imports that entered India during the months of January, April, and May 1999 for polyethylene plastic bags and nylon wires, and during the months of April 1998 through March 1999 for iron drums, as published in *Indian Import Statistics*. We adjusted the value for iron drums to account for inflation.

(8) We used the following sources to value truck and rail freight services incurred to transport the finished product to the port and direct materials, packing materials, and coal from the suppliers of the inputs to Zunyi:

Truck Freight: We valued truck freight services using the 1999 rate quotes reported by Indian freight companies. See *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000).

Rail Freight: We valued rail freight services using the April 1995 rates published by the Indian Railway Conference Association, as adjusted for inflation. For further discussion of the

surrogate values used in this review, see *Memorandum From Timothy Finn Regarding Surrogate Values Used for the Preliminary Results of the Administrative Review of Potassium Permanganate from the People's Republic of China*, (January 30, 2001), which is on file in the CRU-Public File.

Preliminary Results of the Reviews

As a result of our review, we preliminarily determine that the following dumping margins exist for the period January 1, 1999 through December 31, 1999:

Exporter/Manufacturer	Margin (percent)
Guizhou Provincial Chemicals Import & Export Corporation ...	132.11
PRC Wide-Rate	128.54

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of the results. An interested party may request a hearing within 30 days of publication of the preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice, in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. The Department will publish a notice of the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results.

The final results of this review shall be the basis for the assessment of antidumping duties on the entry of merchandise covered by this review and for future deposits of estimated duties.

Duty Assessment Rate

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we

have an calculated importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of the dumping margin calculated for the examined sale to the total entered value of the sale. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. In accordance with 19 CFR 351.106(c)(2), we will instruct Customs to liquidate without regard to antidumping duties any entries for which the assessment rate is de minimis, i.e., less than 0.5 percent. The Department will issue appraisal instructions directly to Customs.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of potassium permanganate from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company named above will be the rate established for that company in the final results of this administrative review; (2) for any previously reviewed PRC or non-PRC exporter with a separate rate not covered in this review, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of this review; and (4) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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 determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the

Assistant Secretary for Import Administration.

Dated: January 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, AD/CVD Enforcement II.

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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 Pipes From Germany; Notice of Amended Final Results of Antidumping Duty Administrative Review in Accordance With Final Court Decision

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

ACTION: Notice of Amended Final Results of Administrative Review in Accordance with Final Court Decision on Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipes from Germany.

EFFECTIVE DATE: February 27, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Phyllis Hall, AD/CVD Enforcement Group III, Office VII, Room 7866, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0196 or (202) 482-1398, respectively.

SUMMARY: On October 5, 2000, the U.S. Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) remand determination of the final results of the antidumping duty administrative review of Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipes from Germany. As no further appeals have been filed and there is now a final and conclusive court decision in this action, we are amending our final results.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1998, the Department published the final results of the administrative review in small diameter circular seamless carbon and alloy steel standard line and pressure pipes from Germany (63 FR 13217) (*Final Results*), covering the period January 27, 1995 through July 31, 1996. On April 27,

1998, the Department published the amended final results of the administrative review in small diameter circular seamless carbon and alloy steel standard line and pressure pipes from Germany (63 FR 20579) (*Amended Final Results*).

Respondent Mannesmann challenged the Department's final results on three issues: (1) the Department's interpretation of sections 773(f)(2) and (3) of the Act; (2) the Department's use of adverse facts available to value Mannesmann's purchases of steel billets from an affiliated supplier; and (3) the use of adverse facts available to value the amount of U.S. customs duties paid by Mannesmann. In the *Final Results*, the Department, pursuant to sections 773(f)(2) and (3) of the Act, used the highest of the transfer price, cost of production or market value to value the billets purchased from an affiliated supplier. The Department concluded that because Mannesmann had not acted to the best of its ability to comply with the Department's information requests, the application of the higher market value to value the billets purchased from its affiliated supplier as adverse facts available was warranted. The Department determined adverse facts available was warranted because of Mannesmann's lack of response to the Department's request for market price information for any purchases of the identical input from unaffiliated suppliers, and the discovery at verification that Mannesmann did make such a purchase of an identical input from both its affiliated supplier and an unaffiliated supplier. The Department utilized the purchase price of the purchase discovered at verification as market value and used this information as facts available to determine market value for the other types of billets because there was no other market value information on the record for the other types of billets. In addition, the Department found that the use of adverse facts available was appropriate for the final results. Therefore, the Department applied this market value adjustment to all purchases from affiliated suppliers. To value the customs duties Mannesmann paid on its U.S. sales in the *Final Results*, the Department used as adverse facts available, the highest U.S. duty amounts reported by Mannesmann for those instances where it was unable to exactly verify Mannesmann's duty rates. The Department applied adverse facts available because it discovered at verification that Mannesmann had under-reported its U.S. duties paid on a number of entries, and because

Mannesmann could not recreate or explain the allocation methodologies it used to derive its figures. Thus, for the Final Results, the Department determined a dumping margin of 22.12 percent for the period of review (POR), based on adverse facts available. On October 29, 1999, the court remanded these final results. See *Mannesmannrohrren-Werke AG v. United States*, 77 F.Supp.2d 1302 (CIT 1999).

The court upheld the Department's interpretation of sections 773(f)(2) and (3) of the Act as allowing the Department to use the highest of the transfer price, cost of production or market price to value an input from an affiliated supplier and affirmed the Department's practice. However, the Court also found that the evidence cited by the Department was insufficient to justify the use of adverse facts available to value Mannesmann's billet purchases from its affiliated suppliers. Similarly, the Court also found that the record evidence identified by the Department did not support the use of adverse facts available to value the U.S. duties paid by Mannesmann. Therefore, the Court ordered the Department to reevaluate its use of adverse facts available and either identify substantial evidence in support of its conclusion that Mannesmann failed to cooperate by not acting to the best of its ability in providing information about input purchases from both affiliated and non-affiliated parties, or otherwise apply non-adverse facts available. The Court also ordered the Department to identify other record evidence to support the use of adverse facts available to value the U.S. duties paid by Mannesmann or otherwise use non-adverse facts available. The Department issued its remand determination on January 27, 2000. See *Remand Determination: Mannesmannrohrren-Werke AG v. United States*, Court No. 98-04-00886 (hereinafter "Remand Results" or RR). In this remand determination, the Department citing additional record evidence, continues to calculate a dumping margin based on adverse facts available for the value of Mannesmann's purchases of steel billets from an affiliated supplier. However, the Department used non-adverse facts available to value the customs duties Mannesmann paid on its U.S. sales.

On October 5, 2000 the Court affirmed the Department's remand results, upholding the use of adverse facts available in valuing Mannesmann's billet purchases, and the application of non-adverse facts available in determining the value of U.S. duties paid. See *Mannesmannrohrren-Werke*