

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*

*AG vs. United States*, Slip Op. 00-126 (CIT, October 5, 2000). Pursuant to the Court's order, we have placed on the record in this case the margin calculation program using adverse facts available for billet purchases and non-adverse facts available for duties paid by Mannesmann.

#### Amendment to Final Results of Review

Because no further appeals have been filed and there is now a final and conclusive decision in the court proceeding, effective as of the publication date of this notice, we are amending the *Final Results*, and establishing the following revised dumping margin:

#### SMALL DIAMETER CIRCULAR SEAMLESS CARBON AND ALLOY STEEL STANDARD AND PRESSURE PIPE FROM GERMANY (POR 1995-1996)

Producer/manufacturer/exporter	Weighted-average margin
Mannesmann .....	20.08%

The "All Others Rate" was not affected by the Remand Determination, and remains at 57.72 percent. *See Final Results* (FR 63 13217).

The Department will instruct the Customs Service to assess these revised antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the Customs Service.

This notice is published in accordance with section 751(a) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistance Secretary for Import Administration.

Dated: February 16, 2001.

**Bernard T. Carreau,**  
Deputy Assistant Secretary, Import Administration.

[FR Doc. 01-4771 Filed 2-26-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of Amendment to Previously Published Notice.

**SUMMARY:** The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice amends a previous notice published December 20, 2000 (65 FR 79803).

#### FOR FURTHER INFORMATION CONTACT:

Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b) (1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

#### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked

and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice by email to oetca@ita.doc.gov, or by mail to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 88-4A012."

The National Tooling and Machining Association ("NTMA") original Certificate was issued on October 18, 1988 (53 FR 43140, October 25, 1988), and was last amended on May 5, 2000 (65 FR 30073, May 10, 2000).

Summary of the Application: Item 1 of the notice published December 20, 2000 (65 FR 79803) is amended to read: (1) the attached list will constitute the "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)). Item 2) of the notice published December 20, 2000 (65 FR 79803) is deleted due to the fact that the attached list takes into account such deletions.

Dated: February 15, 2001.

**Vanessa M. Bachman,**  
Acting Director, Office of Export Trading Company Affairs.

### NTMA CERTIFICATE MEMBER LIST APPLICATION 88-4A012

A & A Industries, Inc .....	Peabody, MA
A & A Machine Company, Inc .....	Southampton, PA
A & A Machine Shop, Inc .....	La Marque, TX
A & B Machine .....	Van Nuys, CA
A & B Machine Shop .....	Rockford, IL
A & B Tool & Manufacturing Corp .....	Toledo, OH
A & D Precision .....	Fremont, CA
A & E Custom Manufacturing .....	Kansas City, KS
A & E Machine Shop, Inc .....	Lone Star, TX
A & G Machine, Inc .....	Auburn, WA
A & S Tool & Die Company, Inc .....	Kernersville, NC
A A Precisioneering, Inc .....	Meadville, PA
A B A Division .....	Manchester, CT
A B C O Tool & Engineering .....	Phoenix, AZ
A B Heller, Inc .....	Milford, MI