examination of relevant sales, cost and financial records, and selection of original source documentation. The public versions of the January 10, 1995, verification reports are available in the Central Unit located in room B–99 of the Department's main building, the Herbert C. Hoover building.

Interested Party Comments

Comment 1

Petitioner contends that Interfit willfully refused, on four separate occasions, to provide from its related party, Vallourec Industries ("Vallourec"), the actual cost of producing carbon steel pipe, a major input in the production of the subject merchandise. Petitioner argues that by repeatedly refusing to respond to the Department's requests for this information, Interfit has not allowed the Department to properly conduct this investigation. Therefore, the Department should apply adverse best information available ("BIA") in the final determination. Petitioner notes that the BIA approach employed at the preliminary determination (i.e., the assumption that all home market sales are below COP) rewards Interfit for its failure to cooperate. Accordingly, as BIA, the Department should use the margin reported for France in the petition or, in the alternative, the highest non-aberrational margin calculated for Interfit in the preliminary determination.

Interfit argues that it informed the Department that it was willing to accept the consequences of not supplying the cost information, as this task would have required Interfit to provide cost information from four separate related manufacturing units. Thus, Interfit is prepared to accept a BIA finding that all home market sales were below COP.

DOC Position

In light of Interfit's cooperation in this investigation, we disagree with petitioner's argument that the Department should use total BIA in the form of the margin reported for France in the petition, or the highest nonaberrant margin calculated for Interfit in the preliminary determination. Our use of partial BIA is adequate because it allows us to draw an adverse assumption only with respect to the information that Interfit failed to provide. Because we were able to perform a BIA cost test, we have adequately ensured that Interfit does not benefit from its failure to provide information. Therefore, total BIA is unnecessary.

Comment 2

Regarding the constructed value, petitioner contends that the prices from Vallourec to Interfit for carbon steel pipe do not satisfy the statutory requirements outlined in section 773(e)(2). According to petitioner, section 773(e)(2) requires Interfit to demonstrate that: (1) It has sales to unrelated customers in the market under consideration (i.e., France); (2) the prices to those unrelated customers are for pipe that was "identical or demonstrably comparable to the pipe used by Interfit;" and (3) the prices that Interfit pays Vallourec are at arm's length. By its own admission, Interfit cannot satisfy the first two elements of the statute, because it concedes that "Vallourec sells no similar pipe to unrelated customers in France." With respect to the third element, according to petitioner, the Department's verification of the prices charged by Vallourec to Interfit and to other unrelated customers demonstrate that the prices to Interfit are preferential.

Thus, petitioner argues that the Department should disregard the transfer prices and use the actual cost of producing the input supplied by Vallourec (carbon steel pipe). However, because Interfit repeatedly refused to provide Vallourec's actual cost of producing carbon steel pipe, the Department is prevented from determining CV and conducting a complete investigation. Therefore, the Department should apply best information available ("BIA") in the final determination. In particular, the Department should use the margin reported for France in the petition or, in the alternative, the highest nonaberrational margin calculated for Interfit in the preliminary determination.

Lastly, Petitioner argues that even if the Department determines that transfer prices between Vallourec and Interfit are at arm's length, the Department has "reasonable grounds to believe or suspect" that the transfer price of the carbon steel pipe is less than the cost of producing the pipe. Petitioner contends that several factors in this investigation provide the Department with 'reasonable grounds to believe or suspect" that Interfit purchased the pipe from Vallourec at less than the COP. Most notably, petitioner claims Interfit did not provide evidence that Vallourec's price for the pipe was above the cost of producing such pipe, even though the information was requested by the Department numerous times.

Petitioner thus argues that, because the Department has "reasonable grounds

to believe or suspect" that pipe is being sold at less than COP, even if the transfer prices are accepted under section 773(e)(2), those prices cannot be used in determining CV. Rather, the Department should apply adverse BIA in the final determination, as detailed above.

Interfit claims that the prices it pays to Vallourec reflect the market value (i.e., they are arm's length prices) and therefore, in accordance with section 773(e)(2), should be used for purposes of calculating constructed value. To substantiate its claim that the transfer prices between Vallourec and Interfit are arm's length, Interfit has provided the Department with prices of similar pipe sold to unrelated customers in the European Union ("E.U."). Interfit argues that, because "the E.U. is a fully integrated market, with no barriers to trade between its members," these sales are, in fact, in the same market (i.e., the market under consideration). Interfit also contends that the term "merchandise under consideration" includes both similar and identical merchandise, not only identical merchandise. With respect to the arm's length nature of these sales, Interfit argues that information submitted in this investigation demonstrates that the prices Vallourec charges Interfit are comparable to the prices charged to unrelated customers for almost identical pipe. Moreover, the pipe sold to Vallourec's unrelated customers includes additional processing costs which are not included in the pipe sold to Interfit. These additional costs would more than account for the difference in price. Thus, pursuant to section 773(e)(2), Interfit claims that the Department should use the transfer prices in calculating CV.

With respect to section 773(e)(3), Interfit claims that this section contains a presumption that transfer prices are valid for purposes of calculating CV unless the Department has "reasonable grounds to believe or suspect" that they are below COP. To support its claim, Interfit cites Al Tech Specialty Steel Corporation v. United States, 575 F.Supp. 1277, 1282 (C.I.T. 1983); FMC Corp. v. United States, 3 F.3d 424 (CAFC 1993); and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, 54 FR 18992, 19020, Comment 4 (1989). Therefore, where constructed value is concerned, petitioner, not respondent, must first provide evidence that the transfer prices are below COP; a simple allegation by petitioner is not sufficient. Interfit also argues that its failure to provide evidence that the transfer prices were