expenses, we are using the expenses as reported.

Comment 10—Packing Costs

The petitioners argue that the Department confirmed at verification that Kindberg incorrectly included packing costs in its calculation of the variable cost of manufacturing used for COP, CV and difference-in merchandise (DIFMER) calculations. According to the petitioners, it is a well-established principle that packing costs are not a cost of manufacturing, and are not included in the variable costs or the difmer calculation, but should instead be reported separately.

However, they also maintain that for all but one model of OCTG the impact of these misplaced packing costs are immaterial. The petitioners state that for that one remaining model where the packing is in wooden boxes, a uniquely expensive method, the actual costs needed for the margin calculations are not on the record. They therefore urge the Department to assign, as partial BIA, to all U.S. sales of this model, a packing cost based on the difference between the highest total cost (sum of material costs, labor costs and variable overhead) of any U.S. sale, which is packing inclusive, and the total cost for the same model as sold in the third country, which is packing exclusive. Calculating this difference isolates from total COM the packing charges which were only included in COM for the U.S. sales of this model.

Kindberg maintains that the special packing costs for this one U.S. model should not be included in the variable cost of manufacturing or in the calculation of differences in merchandise, but that they should be reported as packing costs based on actual cost. Kindberg does not agree with the petitioners' contention that the highest difference in total manufacturing costs for this model should be used as BIA. Kindberg does not state how it would recommend remedying the incorrect reporting.

DOC Position

We agree with the petitioners that the packing costs should not have been reported as a component of manufacturing costs. We also agree with the petitioners that the packing costs should be removed from the reported manufacturing costs and reported independently as packing charges for the specific model in question. We do not agree with the petitioners' recommendation for partial BIA. We have instead calculated the packing expenses for this model from cost of manufacturing based on the data collected at verification, as noted in greater detail in the June 13, 1995, Office of Accounting memorandum. The Department identified the difference between the average unpacked COM reported in the COP database for this OCTG model when sold to Russia and the average packed COM reported in the CV database for sales to the United States. This data allowed the Department to compute a POI-average packing cost for the U.S. sales of this model.

Cost Comments

Comment 1—Cost of Steel Billets

The petitioners object to the use of transfer prices from Kindberg's related supplier, VA Stahl Donawitz, in determining the cost of production and constructed value. They maintain that the use of the reported transfer prices to determine either COP or CV would be contrary to the Act.

With respect to COP, according to the petitioners, Kindberg never provided cost data for raw material purchased from Donawitz, despite the fact that Kindberg and Donawitz are both under common control. The petitioners question the validity of Kindberg's submission of general cost data pertaining to Donawitz's production of various types of blooms and billets, which the petitioners characterize as being untranslated and incomprehensible. The petitioners maintain that these documents do not establish the COP of the billets purchased by Kindberg. Therefore, the petitioners argue that Kindberg has failed to meet the statutory requirement for the use of transfer prices in COP.

With respect to CV, the petitioners maintain that U.S. law only allows the use of transfer prices if two conditions are met: (1) The transfer price reflects market value, and (2) for major inputs, the transfer price is shown to be above the cost of producing the input. They cite to the Department's administrative review of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, 58 FR 39729, 39754–5, July 26, 1993.

The petitioners contend that Kindberg has not fulfilled the first condition because it did not demonstrate that the POI purchases of Donawitz billets were at market value, but instead made a comparison of market prices and transfer prices for the year prior to the POI. The petitioners also argue that Kindberg has also failed to meet the second condition, since they presented no actual COP data on billets, the single most significant input for OCTG production.

To remedy this alleged deficiency, the petitioners recommend that the Department follow the statutory instruction to construct cost on the best evidence available as to what costs would have been if the transaction had occurred between unrelated parties. The petitioners suggest that the Department increase the raw material variable overhead for each control number by an amount equal to the average cost of manufacture reported by Donawitz, multiplied by the statutory ten percent for SG&A.

Kindberg contends that it has provided both a comparative analysis of market prices and Donawitz's average cost of production per ton per billet during the POI for the record in this investigation. According to Kindberg, the information provided demonstrates that the transfer prices are above Donawitz's cost of production and that Donawitz was profitable during the full year 1994. Kindberg claims that the documentation shows specifically that Donawitz sold raw materials to it at a profit. Kindberg therefore urges the Department to utilize the reported transfer prices in its calculation of cost of production and constructed value.

Kindberg maintains that the petitioners' suggestion that the Department should increase the variable overhead cost of raw materials by a hypothetical amount is totally without merit. Kindberg claims that this suggestion was made without citation to administrative precedents, judicial precedents or statutory authority; further, the suggestion runs counter to the antidumping law. Kindberg maintains that the Department is required to, and has a practice of, using actual market prices when related party prices are found to be unreliable. According to Kindberg, the information on record clearly establishes that market prices are lower than those paid by Kindberg to its related party supplier.

DOC Position

We disagree with the petitioners. Kindberg: (1) Was able to show benchmark market prices using both a 1994 contract for purchases of billets from an unrelated party; and (2) provided cost data from Donawitz showing the average cost of producing billets to be below all of the transfer prices reported. Therefore, we used the transfer price from Donawitz to Kindberg for purposes of the final determination.