CHAPTER 9:
COST OF PRODUCTION AND CONSTRUCTED VALUE

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I. INTRODUCTION

This chapter discusses four major areas of our analysis that involve cost issues. First, we discuss our methodology for determining whether home market or third country sales are below their cost of production. Next, in cases where we are unable to use home market or third country sales to calculate NV, we outline our procedures for calculating constructed value. Next, we discuss our procedures for adjusting for further manufacturing in the United States. Finally, we discuss our procedures for calculating COP, CV, and difference in merchandise (difmer) in high inflation economics.

II. SALES AT LESS THAN COST OF PRODUCTION

In many cases, cost of production (COP) is calculated by the accountants in the Office of Accounting (OA). However, it is important that the analyst be aware of how these calculations are made because the analyst is responsible for comparing COP to the prices of the foreign like products in the exporting country (EC) or, if appropriate, third-country sales prices. The results of these comparisons will dictate whether the comparison market prices or constructed value (CV) will be used for normal value (NV). In some cases, the analyst is responsible for calculating COP. In these situations, you must work closely with your supervisor or program manager (PM) in performing the analysis and verification of the data.

Section 773(b) of the Act states that sales of the foreign like product made at prices below the COP may be disregarded for determining NV whenever such sales 1) have been made within an extended period of time in substantial quantities, and 2) were not at prices which permit recovery of all costs within a reasonable period of time.

A. Initiation of a COP Investigation

A "sales-below-cost" investigation is conducted, pursuant to section 773(b) of the Act, when there are reasonable grounds to "believe or suspect" that sales of the foreign like product have been made below the COP. We do not initiate a COP inquiry in every investigation or review.

1. We initiate only in the following circumstances:

a. In an investigation, administrative review, a new shipper review, or a changed circumstances review (CCR), where an allegation has been made by a domestic interested party indicating that sales of the foreign like product in the comparison market have been made at less than COP. This allegation must be presented in a timely manner and supported with sufficient evidence.

b. In an administrative review or a CCR, when some or all of a specific company's comparison market sales were determined to be below COP, and therefore, disregarded in the determination of NV in the most recently completed segment of the proceeding (i.e., an investigation or a review) for that company. The most recent review completed is the most recent review for which final results have been published on or before the date on which publication of the notice of initiation of the new review occurs. If the newly initiated review is the first review of a particular exporter/producer, the decision will be based on whether below-cost sales were disregarded for that particular exporter/producer in the LTFV investigation. See Policy Bulletin 05.2 of November 4, 2005.

2. A sales-below-cost allegation is considered to be filed in a timely manner, as required by 19 CFR 351.301(d)(2), on a

a. Country-wide basis: when in an investigation, the allegation has been made within 20 days after the date on which the initial antidumping duty questionnaire was transmitted to any person. In most instances, the domestic party will make a country-wide sales-below-cost allegation at the time of filing the petition for the imposition of antidumping duty.

b. Company-specific basis: when in an investigation, administrative review, new shipper review, or changed circumstances review, the allegation has been made within 20 days after a respondent files an initial response to the relevant sections (i.e., A, B, and C) of the antidumping duty questionnaire (unless the Department determines that the relevant questionnaire response is incomplete).

3. Extensions for filing allegations:

a. Country-wide: We can grant additional time beyond the 20 days to the party making a country-wide cost allegation when we receive a request for such additional time and determine from the facts of the particular case that such additional time is needed. However, once company-specific information (i.e., section B response) has been submitted by a respondent, the petitioner must make a company-specific allegation.

b. Company-specific: We can also grant additional time for a company-specific allegation when we determine that the questionnaire response for that company is incomplete, and the additional time has been requested by the petitioner.

4. Sufficiency:

Sufficiency of an allegation will be examined on a case-by-case basis. Normally, a COP allegation is considered sufficient when it is supported by information reasonably available to the petitioner, including information already on the record.

a. In a country-wide COP allegation, where company specific information is not on the record, we consider the allegation to be sufficient when petitioners rely on their own COP data for the relevant period (i.e., the proposed POI) and adjust the costs for known differences between costs in the United States (U.S.) and those in the country under investigation or review. Such adjustments include, but are not limited to, adjustments for 1) wage and salary rates, 2) volume of output of the company under investigation or review which affect the fixed overhead costs, 3) material prices, and 4) differences in the methods used in the manufacturing processes.

b. In a company-specific COP allegation, where company-specific costs and sales information are on the record, such information must be used for the allegation.

5. Representativeness:
Import Administration Policy Bulletin 94.1 clarifies that a sales-below-cost allegation need not 1) reflect that sales were made below COP in substantial quantities (i.e., 20 percent of the sales of the foreign like product), 2) reflect an extended period of time, 3) demonstrate recovery of cost or 4) include sales of every model involved in the investigation or review. However, the sales for the models of the product which are used for an allegation should be representative of the models which are to be used to determine NV in the final determination for the investigation or in the final results for the review.

6. Calculation of COP for Sales-below-cost Allegations

A sales-below-cost allegation needs to comply with our usual methodology for determining the COP, and should identify each major component of the COP. OA normally prepares a memo analyzing the COP calculation methodology used in the cost allegation (the analyst will have to do this if OA is not involved). For company-specific allegations, this memo is attached to a decision memo that includes an analysis of the comparison of COP to individual sales prices and that states whether or not the Department should initiate a sales-below-cost investigation. For country-wide allegations, the COP calculation methodology would be part of the case initiation memo and checklist. See below for information on how to calculate COP and how to compare COP to EC or third-country prices.

B. General Guidelines for the Calculation of COP

1. COP Components

The first step in calculating COP is to sum the major components in accordance with section 773(b)(3) of the Act. The major components of COP are the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; and packing expenses. Note that the Department routinely uses the term "COP" to describe the sum of COM, SG&A expenses, and comparison market packing expenses. Although the critical difference in terms for CV and COP is that CV includes the component of profit, whereas COP does not, there are other differences as well. CV is equal to COM of the subject merchandise, SG&A of the foreign like product, profit, and U.S. packing expenses, while COP is composed of COM of the foreign like product, SG&A, and comparison market packing expenses.

a. Cost of Manufacturing

COM includes the direct materials, direct labor, variable manufacturing overhead, and fixed manufacturing overhead costs incurred in the production of the merchandise. The COM component of COP is for the foreign like product sold in the comparison market (i.e., either the home market or third country market).

1) Direct Materials Costs

Direct materials costs include the acquisition costs of all materials that are identified as part of the finished product and may be traced to the finished product in an economically feasible way. In contrast to indirect materials, direct materials are applied and assigned directly to a finished product. Direct material costs should include transportation charges, import duties and other expenses normally associated with obtaining the materials that become an integral part of the finished product.

2) Direct Labor Costs

Direct labor costs include the cost of workers who transform the materials into a finished product during the production process. Direct labor includes the costs incurred for all production workers, inspection/testing workers, relief workers, and all other workers directly involved in producing the merchandise. Direct labor consists of the workers' base pay, overtime pay, incentive wages, shift differentials, bonuses, and all other form of wages and benefits paid to them by the company (e.g., vacation, holidays, sick pay, insurance, government mandated social programs).

3) Variable Manufacturing Overhead Costs

Variable manufacturing overhead costs include those production costs, other than direct materials or direct labor, that generally vary in total with changes in the volume of merchandise produced at a given level of operations. Variable manufacturing overhead costs may include indirect materials (e.g., supplies used in the manufacturing process), indirect labor (e.g. supervisory labor paid on an hourly basis), utilities (e.g., electricity), and other variable overhead costs.

4) Fixed Manufacturing Overhead Costs

Fixed manufacturing overhead costs include those production costs that generally do not vary in total with changes in the volume of merchandise produced at a given level of operations. Fixed manufacturing overhead costs may include the costs incurred for building or equipment rental, depreciation, supervisory labor paid on a salary basis, plant property taxes, and factory administrative costs. In addition, fixed manufacturing overhead costs include research and development (R&D) costs which relate specifically to the subject merchandise.

b. SG&A

Included in the calculation of COP, are the actual amounts of SG&A expenses incurred in connection with the production and sale of a foreign like product (i.e., from sales in the EC or third-country market). In addition to SG&A, we include in COP the net, actual financial expense (i.e., financing costs) incurred by the company involved in the production of merchandise under consideration. See section B.5.a. of the SAA at page 165.

1) Selling Expenses

Selling expenses are those direct expenses incurred to sell the product, which are closely tied to the product and market under review.

2) G&A and Net Financial Expenses

G&A and financial expenses are general in nature, relate to the company as a whole, and are not specific to products or markets (unlike selling expenses). G&A expenses are those non-manufacturing, period expenses (i.e., expenses assigned to a particular period irrespective of production output in that period) which relate to the general operations of the company as a whole rather than to a particular product or a division. G&A expenses typically include amounts incurred for general R&D activities, executive salaries and bonuses, and operations relating to the company's corporate headquarters. Also included in G&A expenses, is an amount for administrative services performed by the parent company or other affiliated party on the respondent company's behalf.

G&A expenses are computed on an annual basis as a ratio of total company-wide G&A expenses divided by total company-wide cost of goods sold ("COGS"). In calculating the company's G&A expense ratio, the respondent uses the full-year G&A expense and COGS reported in the company's unconsolidated, audited fiscal year financial statements for the fiscal year that most closely corresponds to the POI or POR. To compute the per-unit amount of G&A expense for each reported CONNUM, the per-unit, total cost of manufacturing (TOTCOM) reported in the cost database is multiplied by the G&A expense ratio. Normally, packing, freight, and movement costs are excluded from COGS in the G&A expense ratio calculation because the ratio is applied to a TOTCOM exclusive of packing, freight, and movement costs.

In calculating net financial expenses for COP, the sum of the respondent's interest expenses relating to both long- and short-term loans made by the company and net foreign exchange gains and losses are reduced by the amount of interest income the respondent earned on short-term investments of its working capital. If the respondent's company is a member of a consolidated group of companies, net financial expenses are calculated based on the consolidated, audited fiscal year financial statements of the highest consolidation level available. In calculating the company's net financial expenses ratio, the respondent uses the full-year net financial expenses and COGS reported in the consolidated, audited fiscal year financial statements for the period that most closely corresponds to the POI or POR. To compute the per-unit amount of net financial expenses for each reported CONNUM, the per-unit TOTCOM reported is multiplied by the net financial expenses ratio. Packing, freight, and movement costs are excluded from COGS (i.e., the denominator used to calculate the net financial expense ratio) because the ratio is normally applied to a TOTCOM exclusive of packing, freight, and movement costs.

c. Packing Costs

The actual packing costs incurred for packing the foreign like product for shipment to the comparison market is added to the amounts for COM, SG&A, and financial expenses. Packing costs are differentiated from packaging costs by the Department. Packing costs refer to materials that are used only for the shipment of the merchandise and is a separate component of COP. Packaging costs refers to materials that become an integral part of the merchandise that is sold and is included in the COM. For example, in Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil, 69 FR 47081 (August 4, 2004) a particular respondent "packaged" the processed shrimp in a plastic bag and mini box. After freezing, the mini boxes were "packed" in master cartons and shipped in a container to export markets. The respondent reported the costs of the plastic bags and mini boxes as packaging costs while the costs of master boxes, adhesive and wrap tapes, and wrapping buckles were reported as packing costs. Likewise, in Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty Administrative Review, 66 FR 36754 (July 13, 2001) (Mushrooms from Indonesia) and accompanying Issues and Decision Memorandum at Comment 16, the cans and jars that contained the mushrooms were reported as packaging costs while the cartons and pallets used to pack the cans and jars for shipment were reported as packing costs.

C. Quantifying and Valuing COP Components

1. Guidance for quantifying and valuing the elements of COP and CV are provided in section 773(f) of the Act.

a. Generally Accepted Accounting Principles

Section 773(f)(1)(A) of the Act states that "costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise." As such, we generally use data from the books of the respondent to calculate the components of CV and COP, provided such books are kept in accordance with the GAAP of the country and reasonably reflect the costs of producing the merchandise. In addition, the cost allocation methodologies used must have been historically used by the respondent.

1) The following cases illustrate situations where the Department did not consider the reported costs to be in accordance with GAAP or the GAAP of the EC did not reasonably reflect the cost of producing the merchandise.

In Final Determination of Sales at Less Than Fair Value: Certain Hot Rolled Carbon Steel Flat

Products, et. al., from Brazil, 58 FR 37097 (July 9, 1993), the Department did not accept the respondent's change in the useful lives of its assets because the revised remaining lives were longer than the lives commonly utilized in the steel industry worldwide.
The respondents in Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less Than Fair Value, 63 FR 8909, 8921 (February 23, 1998) treated stock distributions to their directors, supervisors, and employees as a reduction to equity in accordance with Taiwanese GAAP. The Department, however, determined that it was more reasonable to consider these amounts as expenses (rather than a reduction to equity) because stock distributions represent compensation for services which the individual has provided to the company. As a result, the Department adjusted the reported CV to include these amounts.

2) In those instances where it is determined that a company's normal accounting practices result in a mis-allocation of production costs, the Department will adjust the respondent's costs or use alternative calculation methodologies to capture more accurately the actual costs incurred to produce the merchandise.

For example, in Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review, 68 FR 41303 (July 11, 2003) and accompanying Issues and Decision Memorandum at Comment 1, the Department valued the work-in-process inventory using an alternative calculation methodology because the respondent's allocation methodology (even though it was in accordance with Indian GAAP) overstated the ending work-in-process inventory and understated the manufacturing costs of the scope merchandise. See also Notice of Final Determination of Sales At Less Than Fair Value: Certain Preserved Mushrooms from India, 63 FR 72246,72249 (December 31, 1998) and Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, 57 FR 21937, 21952, (May 26, 1992).

3) We have also made adjustments to the data maintained by the respondent in accordance with the home country's GAAP in those cases where the respondent is located in a country experiencing a high rate of inflation. See section V of this chapter for more information on calculations for costs in high-inflation economies.

b. Non-recurring Costs

We allocate the portion of non-recurring costs that benefit current and/or future production to the periods that will benefit from the expenditures. The method and period of time over which the costs are allocated are determined on a case-by-case basis.

c. Start-up Operations

We allow respondents to adjust their reported COP/CV for higher than normal costs incurred as a result of the company being in a startup operation. In brief, start-up operations are those operations where (1) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (2) the production levels are limited by technical factors associated with the initial phase of commercial production. See section B.5.d. of the SAA at page 165. The 1994 amendments to the Act specifically addressed when an operation is considered to be in a start-up mode and how to account for the costs associated with start-up. Consult with your supervisor or PM when there is a claim for a startup adjustment. See section 773(f)(1)(C) of the Act and 19 CFR 351.407(d) of the Department's regulations for additional guidance.

In making a startup adjustment, we generally compare the per-unit manufacturing cost experienced by the respondent during the first month after the end of the startup period to the per-unit manufacturing cost experienced during the startup period. If the per-unit manufacturing cost during the first month after the end of the startup period is lower than the per-unit manufacturing cost during the startup period, the adjustment amount is the difference in these per-unit manufacturing costs times the production quantity during the startup period. The adjustment amount is a reduction to the reported costs. As the startup adjustment results in a certain amount (of actual production costs incurred during the startup phase) not being counted, the difference between actual production costs incurred and the adjusted cost of production (i.e., the adjustment amount) will be amortized subsequent to the startup phase over a reasonable period of time (e.g., over the life of the product or machinery). See section B.5.d.(3) of the SAA at page 167.

The following cases are examples of the Department's determinations in those instances where the respondent requested a startup adjustment.

1). In Brass Sheet and Strip From the Netherlands: Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order, 65 FR 742, 743 (January 6, 2000), the Department granted a startup adjustment because the respondent met the criteria of a new production facility and the respondent's production levels were limited by technical factors related to the initial phase of commercial production.

2). The Department denied a claimed startup adjustment in Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review, 66 FR 42507 (August 13, 2001) and accompanying Issues and Decision Memorandum at Comment 8, because the respondent did not have a new production facility and production levels were not limited by technical factors associated with the initial phase of commercial production.

D. Transactions Disregarded and Major Input Rule (Affiliated Party Transactions)

The 1994 amendments to the Act changed the definition of affiliated parties and, therefore, a case conducted prior to the enactment of these amendments might not be an appropriate precedent for determining whether a party is considered to be an affiliated party or whether the value used was an appropriate value for a transaction with an affiliated party. See Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof from Japan (LNPP from Japan), 61 FR 38162, 38163 (July 23, 1996) (wherein the Department determined affiliation based on a close supplier relationship). Typically, we measure whether an input is major based on the significance of the value of purchases from an affiliate in relation to the total cost of manufacturing all products under investigation. Whether an input qualifies as "major," however, must be determined on a case-by-case basis. You should consult with your supervisor or PM when there are questionable transactions which might involve "affiliated parties." See section XVII of this chapter for more information on affiliated parties and 19 CFR 351.407).

1. Transactions Disregarded

As set forth in section 773(f)(2) of the Act, a transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated. The following are examples where the Department has applied the transaction disregarded rule.

a. In Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review, 69 FR 6255 (February 10, 2004) and accompanying Issues and Decision Memorandum at Comment 32, the Department considered the price paid by a respondent to its unaffiliated suppliers of semolina (a material input in the production of pasta) in Italy to be reflective of market prices, and used the weighted-average of these prices as the benchmark. The Department compared the average transfer price of semolina purchased from the respondent's affiliated suppliers to this benchmark and determined that the benchmark price is higher than the average price paid to the affiliated suppliers. Therefore, for the final results, the Department adjusted the cost of semolina obtained from affiliates to reflect a market price.

b. In Certain Cold-Rolled Carbon Steel Flat Products from France: Final Determination of Antidumping Duty Investigation of Sales at Less Than Fair Value, 67 FR 62114 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 27, the Department in applying the transaction disregarded rule, added freight to the undelivered price of an input purchased from an unaffiliated supplier for comparison to the delivered price of the same input purchased from an affiliated supplier.

2. Major Input Rule

Section 773(f)(3) of the Act governs the major input rule, which involves input transactions between affiliated parties. In such instances where we have reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the

basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under the transaction disregarded rule. For any major inputs purchased from affiliated parties, the Department normally compares the transfer price and the market price to the affiliated supplier's COP and adjusts the reported costs to reflect the highest of these three amounts.
Typically, we measure whether an input is major based on the significance of the value of purchases from an affiliate in relation to the total cost of manufacturing all products under investigation. Whether an input qualifies as "major," however, must be determined on a case-by-case basis. You should consult with your supervisor or PM when there are questionable transactions which might involve affiliated parties. See section XVII of this chapter for more information on affiliated parties and 19 CFR 351.407).

For example, in Bottle-Grade Polyethylene Terephthalate (PET) Resin from Taiwan: Final Determination of Antidumping Duty Investigation of Sales at Less Than Fair Value, 70 FR 13454 (March 21, 2005) and accompanying Issues and Decision Memorandum at Comment 8, the Department concluded that purified terephthalic acid (PTA) and mono-ethylene glycol (MEG) are major material inputs in the production of Bottle-Grade Polyethylene Terephthalate (PET) Resin. The Department compared the purchase values of PTA and MEG obtained from the affiliated supplier to the purchase values from unaffiliated suppliers (i.e., market prices) and to the affiliated supplier's COP. The Department found that the cost to produce the PTA was higher than the market price and the transfer price, while the market price of MEG was above the transfer price and the affiliate's COP. Therefore, the Department adjusted the reported costs of PET Resins to reflect the affiliate's COP of PTA and the market price of MEG.

E. Determining Whether Sales Should Be Disregarded (The Sales-Below-Cost Test)

Section 773(b) of the Act states that sales made below COP may be disregarded for calculation of NV if those sales were 1) within an extended period of time in substantial quantities, and 2) at prices which do not permit the recovery of all costs within a reasonable period of time. The terms associated with these two requirements are specifically defined by section 773(b)(2) of the Act. Also, the sales-below-cost test is always done on a product-specific basis.

1. Extended period of time: for an investigation or review is "normally one year, but not less than six months." Section 773(b)(2)(B) of the Act.

2. Substantial quantities: exist if the "volume of such sales represent 20 percent or more of the volume of sales under consideration for the determination of NV." Substantial quantities may also be considered to exist when the weighted-average per-unit price of the sales under consideration for the determination of NV is less than the weighted-average per-unit COP of such sales. The Department intends to use the second criterion for determining whether substantial quantities exist for specific types of products, (e.g., highly perishable agricultural products). Section 773(b)(2)(C) of the Act.

3. Costs are considered to be recovered within a reasonable period of time: when the sales price below the per-unit COP at the time of sale is above the weighted-average per-unit COP for the whole POI or POR. Section 773(b)(2)(D) of the Act. For example, when costs are declining, prices which are below the per-unit COP at the beginning of the POI or POR may be above the weighted-average per-unit COP for the period. As a result, such sales would be useable for purposes of NV.

For example, in Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Recision of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part, 69 FR 25063 (May 5, 2004), which was unchanged in Certain Steel Concrete Reinforcing Bars From Turkey: Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (November 8, 2004) and Accompanying Issues and Decision Memorandum, for those instances where less than 20 percent of the respondent's sales of a given product (i.e., CONNUM) were at prices below COP, the Department did not disregard the below-cost sales because those sales were not made in "substantial quantities."

In those instances where 20 percent or more of the respondent's sales of a given product (i.e., CONNUM) were at prices below cost, the Department determined that those sales were made at substantial quantities. The Department then analyzed these sales (i.e., in regard to the second criterion) and determined that these sales were not made at prices which would permit recovery of all costs within a reasonable period of time. Because both criteria were met, the Department disregarded the sales in question and used the remaining sales as the basis of determining NV.

4. The Comparison of COP to Sales Prices

a. Conducting the comparison: In its cost test, the Department compares EC market or third country market prices to COP. Prior to conducting the test, the Department must be satisfied that the COP used for comparison purposes represents the COP of the model of the product under investigation or review which is sold in the comparison market. The Department must also ensure that the sales prices and COP are on the same basis. For example, the Department normally excludes discounts and rebates, movement charges, direct and indirect selling expenses, and packing expense from the sales prices and compares those prices to a COP which is composed of COM, general and administrative (G&A), and interest expenses. Import Administration Policy Bulletin 94.6 (March 25, 1994), "Treatment of Adjustments and Selling Expenses in calculating the COP and CV." As a result, the sales prices and the COP are on the same basis because both are net of any sales related expenses, movement expenses, and packing expenses. Please note the following when adjusting the sales prices and/or COP:

i. According to the statute, selling and packing expenses are to be included in the calculation of COP. However, in the programming language of the sales-below-cost test, selling and packing expenses are deducted from the gross comparison market prices rather than included in COP.

ii. Movement charges and rebates are normally deducted from the comparison market prices before comparison to COP, if appropriate. However, some companies record the cost of freight and rebates to customers as direct selling expenses. In this case, in order to avoid double counting, either the direct selling expenses are reduced by the amount of the freight charge and rebates or the transaction-specific freight and rebate charges are not deducted from the sales prices.

iii. When U.S. sales are export price (EP) sales, the COP should include actual indirect selling expenses.

b. The results of the comparison: As discussed in E., above, when the COP is compared to individual EC or third-country sales prices, and 20 percent or more by volume of the sales of a given product during the POI or POR fail the cost test, the Department may disregard those below-cost sales from the calculation of NV. The remaining sales of that given product that passed the cost test are used in the calculation of NV. Where less than 20 percent of the sales during the POI or POR of a given product fail the cost test, we do not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time.

F. Important Procedures for COP/CV Investigations

1. The decision to request COP and CV information

The COP and CV section of the questionnaire should be sent to the respondent at the time of the initiation of an investigation or the commencement of a review, regardless of whether or not there is a sales-below-cost investigation. A respondent is not required to submit COP and CV information unless a) an acceptable COP allegation is part of the petition in an investigation (CV information is always required to be submitted when COP data is required), b) it is known that a COP inquiry is needed at the time of initiation of a review because the Department disregarded below cost sales for the same company in the most recent previously completed segment of the proceeding, c) it is known that a CV comparison will be made based on the case history of a review or d) there is no contemporaneous foreign market sale of identical or similar merchandise for comparison to one or more U.S. sales. In other instances for investigations and reviews, the respondent may be required to furnish CV information after the issuance of the questionnaire. Examples of such instances include situations where a) section A responses to the questionnaire reveal that the exporting-country and third-country markets fail the market viability test or b) when acceptable company-specific allegations are received. See Chapter 4 for more information on questionnaires for COP and CV data. See section III of this chapter for information on CV.

2. Determining the period for COP information

After the decision is made to initiate a COP investigation or base NV on CV, the assigned accountant or senior financial analyst, as available, should be notified. The case analyst and the accountant or financial analyst should coordinate to ensure that the POI or POR will provide for the cost data needed to calculate the COP and/or CV. Examples of when the POI or POR may not provide for the cost data required to calculate the CV and/or COP are:

a. When the sales of a customized product are consummated prior to production of the product and, as a consequence, the actual manufacturing of the product occurs subsequent to the sale dates.

For example, in Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Final Results Antidumping Duty Administrative Review (LNPP from Japan Administrative Review), 66 FR 11555 (February 26, 2001) and accompanying Issues and Decision Memorandum at Comment 2, the custom-built nature of the products under consideration resulted in long lag times between the consummation of the sale of the merchandise and its final installation (i.e., completion of manufacturing process) at the customer's site.

b. When the product requires longer than one year for production (e.g., certain agricultural products).

In Fresh Atlantic Salmon from Chile: Final Determination of Antidumping Duty Investigation of Sales at Less Than Fair Value, 63 FR 31411 (June 9, 1998), the Department noted that the actual production process for the subject merchandise began prior to the POI and ended subsequent to the POI. Therefore, the Department did not rely only on the POI costs, but rather the actual production costs incurred by the respondent prior to, during, and after the POI (i.e., one complete growing cycle).

3. Case analyst's responsibility for COP/CV

In cases where the analyst is not responsible for calculating the COP and/or CV, he or she is still responsible for knowing the basic methodology and the particular issues of the investigation or review that relate to cost. The analyst is also responsible for verifying and providing the necessary data on selling expenses and packing which are used in the COP/CV computation. For cases where the analyst is responsible for calculating COP and CV, he or she must work closely with their supervisor or PM on all aspects of the analysis and verification.

4. Conducting the panel review and disclosure meeting

During panel review, certain areas need to be specifically checked and coordinated to ensure that the calculations and comparisons are correct. The most important of these are as follows:

a. Checking to ensure that appropriate matching of the sales price and the COP or CV for each specific model has occurred;

b. Checking to ensure the use of the appropriate selling expenses for the sales, and;

c. Any adjustments to COP or CV have been properly included in the COP or CV calculations. The analyst and the accountant or financial analyst must both be present for the subsequent disclosure of the COP/CV calculations to the parties.

G. Sample Calculation for COP

All amounts shown in this calculation are in units of foreign currency. There is no need to convert them to U.S. dollars as they will be compared to the EC or third-country prices of the product which are normally reported in the foreign currency.

COM:

Materials	2.90
Labor	1.70
Variable Manufacturing Overhead	1.15
Fixed Manufacturing Overhead	1.30
Total COM	7.05
G&A (e.g., using a rate of 18% , 7.05*0.18)	1.27

(Note: Remember that selling and movement expenses are not included in the calculation of COP because these expenses are deducted from sales prices-- see F., above).

Financial Expenses (e.g., using a rate of 12%, 7.05*0.12)	0.85
Total COP	9.17

The COP figure of 9.17 per unit is then compared to EC or third-country market sales prices net of discounts and rebates, movement charges, direct and indirect selling expenses, and packing expenses to determine if these prices are below cost.

III. CONSTRUCTED VALUE

A. Use of CV

CV is an alternative basis for the calculation of NV. NV is normally based on the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in an exporting country (EC) or third country market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price (EP) or constructed export price (CEP). If we are unable to use the EC or the third country market price as a basis for NV, we base NV on CV for the merchandise under consideration that is sold in the U.S. (i.e., the subject merchandise). Generally, CV is calculated by the accountants of the OA or senior financial analysts from your office. Regardless, the analyst must be aware of how to calculate CV. Further, the analyst must make adjustments to CV that are required for a fair comparison to U.S. price.

Sections 773(a)(1), 773(a)(4) and 773(b)(1) of the Act and 19 CFR 351.405 provide that we use CV for NV when:

1. Neither the exporting country (EC) nor a third-country market (i.e., the comparison market) is viable.

For example, in Certain Color Televisions From Malaysia: Negative Preliminary Determination of Sales at Less Than Fair Value, 68 FR 66810, 66813 (November 28, 2003), the Department based the NV of the subject merchandise on CV because a respondent made no home market sales of the foreign like product during the POI. In addition, sales by the respondent to its largest third country market were not greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.

2. There is a viable EC or third-country market but a particular market situation does not permit a proper comparison with the EP or CEP.

Although the home market was viable for both respondents in Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Antidumping Duty Administrative Review, 65 FR 62700, 62702 (October 19, 2000), (Large Newspaper Printing Presses From Japan) the Department based NV of the subject merchandise on CV because each large newspaper printing press was unique and custom-built.

3. In an investigation, when the sales of the subject merchandise have no identical or similar sales in the comparison market.

When this situation arises in a case with no cost allegation, the respondent should be requested to respond to the CV portion of section D of the Department's antidumping questionnaire for those models sold in the U.S. for which there were no identical or similar sales in the comparison market. See Purified Carboxymethylcellulose From Netherlands: Preliminary Determination of Sales at Less Than Fair Value, 69 FR 77205, 77206 (December 27, 2004).

4. In an administrative review, when the sales of the subject merchandise have no identical or similar sales in the comparison market during the contemporaneous period (i.e., three months prior to the month of the U.S. sale or two months following the month of the U.S. sale). In a case with no cost allegation, the respondent should be requested to respond to the CV portion

of section D of the Department's antidumping questionnaire for those models sold in the U.S. for which there were no identical or similar sales in the comparison market during the contemporaneous period.

5. All sales of the foreign like product sold in the comparison market were sold below the COP (i.e., these sales failed the cost test). As such, we are unable to compare the EC or the third country market price to EP or CEP price. See sections 773(b)(1) and (2) of the Act and Import Administration Policy Bulletin 98.1. If there is any question on current policy, consult your supervisor or PM.

6. The remaining sales that passed the cost test were not made in the ordinary course of trade (e.g., aberrational prices, year-end models, obsolete merchandise, etc.), were not at a time contemporaneous with the U.S. sales, or were made to establish a fictitious market.

When the EC market sales are not viable, we generally use sales of a viable third-country market rather than CV. However, we still retain the discretion to select CV, if more appropriate, over a third-country market. See section 773(a)(4) of the Act and 19 CFR 351.405(a)) of the Department's regulations.

After the comparison market is chosen, the issue of viability will not normally be reexamined. In those situations where all the EC market sales prices of the product which is most similar to the U.S. product are disregarded, because they failed the cost test, or are outside the ordinary course of trade for reasons other than cost, we use the CV for comparison purposes rather than sales prices of less similar merchandise in the EC market or sales prices in a third-country market. See sections I, IV, and XIV of this chapter for explanations of market viability, ordinary course of trade, DIFMER and COP, respectively.

B. General Guidelines for the Calculation of CV

1. CV Components

The first step in calculating CV is to sum its three major components in accordance with section 773(e) of the Act. The three major components of CV are the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses and profit; and packing expenses. Note that the Department routinely uses the term COP to describe the sum of COM, SG&A expenses, and comparison market packing expenses. The difference between CV and COP is that CV is equal to COM, SG&A, profit, and U.S. packing expenses, while COP is only COM, SG&A, and comparison market packing expenses and does not include profit.

In cases where the producer is not the exporter and CV is the basis for NV, the costs of the exporter are combined with the costs of the producer to arrive at the CV of the merchandise. This procedure is followed regardless of whether or not the exporters and producers are affiliated parties. See Notice of Final Determination of Sales at Less Than Fair Value: Live Swine from

Canada, 70 FR 12181 (March 11, 2005) and the accompanying Issues and Decision Memorandum; and Final Determination of Sales at Less than Fair Value: Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7661 (February 25, 1991).

a. Cost of Manufacturing

COM includes the direct materials, direct labor, variable manufacturing over head, and fixed manufacturing overhead costs incurred in the production of the merchandise. The COM component of CV is for the product exported to the U.S. (i.e., the subject merchandise). See Policy Bulletin 91.2 of July 18, 1991.

1). Direct Materials Costs

Direct materials costs include the acquisition costs of all materials that are identified as part of the finished product and may be traced to the finished product in an economically feasible way. In contrast to indirect materials, direct materials are applied and assigned directly to a finished product. Direct material costs should include transportation charges, import duties and other expenses normally associated with obtaining the materials that become an integral part of the finished product.

2). Direct Labor Costs

Direct labor costs include the cost of workers who transform the materials into a finished product during the production process. Direct labor includes the costs incurred for all production workers, inspection/testing workers, relief workers, and all other workers directly involved in producing the merchandise. Direct labor consists of the workers' base pay, overtime pay, incentive wages, shift differentials, bonuses, and all other form of wages and benefits paid to them by the company (*e.g.*, vacation, holidays, sick pay, insurance, government mandated social programs).

3). Variable Manufacturing Overhead Costs

Variable manufacturing overhead costs include those production costs, other than direct materials or direct labor, that generally vary in total with changes in the volume of merchandise produced at a given level of operations. Variable manufacturing overhead costs may include indirect materials (e.g., supplies used in the manufacturing process), indirect labor (e.g. supervisory labor paid on an hourly basis), utilities (e.g., electricity), and other variable overhead costs.

4). Fixed Manufacturing Overhead Costs

Fixed manufacturing overhead costs include those production costs that generally do not vary in total with changes in the volume of merchandise produced at a given level of operations. Fixed manufacturing overhead costs may include the costs incurred for building or equipment rental, depreciation, supervisory labor paid on a salary basis, plant property taxes, and factory administrative costs. In addition, fixed manufacturing overhead costs include research and development (R&D) costs which relate specifically to the subject merchandise.

b. SG&A and Profit

Included in the calculation of CV, are the actual amounts of SG&A expenses incurred and profit realized in connection with the production and sale of a foreign like product (i.e., from sales in the EC or third-country market) in the ordinary course of trade of the product under investigation or review for the specific company under investigation or review. This calculation of SG&A is known as the "preferred methodology" See section 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1)) of the Department's regulations. When such data is unavailable, section 773(e)(2)(B) of the Act provides for alternative methodologies to be used in the calculation of SG&A and profit. In addition to SG&A and profit, we include in CV the net, actual financial expense (i.e., financing costs) incurred by the company involved in the production of subject merchandise. See section B.5.a. of the SAA at page 165.

1). Selling Expenses

Selling expenses are those expenses, incurred to sell the product, which are closely tied to the product and market under review. Since selling expenses are based on actual amounts incurred, imputed selling expenses (e.g., inventory carrying costs) are not included in the CV (see Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 45664 (August 29, 2001) and accompanying Issues and Decision Memorandum at Comment 5).

2). G&A and Net Financial Expenses

G&A and financial expenses are general in nature, relate to the company as a whole, and are not specific to products or markets (unlike selling expenses and profit). G&A expenses are those non-manufacturing, period expenses (i.e., expenses assigned to a particular period irrespective of production output in that period) which relate to the general operations of the company as a whole rather than to a particular product or a division. G&A expenses typically include amounts incurred for general R&D activities, executive salaries and bonuses, and operations relating to the company's corporate headquarters. Also included in G&A expenses, is an amount for administrative services performed by the parent company or other affiliated party on the respondent company's behalf.

G&A expenses are computed on an annual basis as a ratio of total company-wide G&A expenses divided by total company-wide cost of goods sold ("COGS"). In calculating the company's G&A expense ratio, the respondent uses the full-year G&A expense and COGS reported in the company's unconsolidated, audited fiscal year financial statements for the fiscal year that most closely corresponds to the POI or POR. To compute the per-unit amount of G&A expense for each reported CONNUM, the per-unit, total cost of manufacturing (TOTCOM) reported in the cost database is multiplied by the G&A expense ratio. Normally, packing, freight, and movement costs are excluded from COGS in the G&A expense ratio calculation because the ratio is applied to a TOTCOM exclusive of packing, freight, and movement costs.

In calculating net financial expenses for CV, the sum of the respondent's interest expenses relating to both long- and short-term loans made by the company and net foreign exchange gains and losses are reduced by the amount of interest income the respondent earned on short-term investments of its working capital. If the respondent's company is a member of a consolidated group of companies, net financial expenses are calculated based on the consolidated, audited fiscal year financial statements of the highest consolidation level available. In calculating the company's net financial expenses ratio, the respondent uses the full-year net financial expenses and COGS reported in the consolidated, audited fiscal year financial statements for the period that most closely corresponds to the POI or POR. To compute the per-unit amount of net financial expenses for each reported CONNUM, the per-unit TOTCOM reported is multiplied by the net financial expenses ratio. Packing, freight, and movement costs are excluded from COGS (i.e., the denominator used to calculate the net financial expense ratio) because the ratio is normally applied to a TOTCOM exclusive of packing, freight, and movement costs.

c. Packing Costs

The actual packing costs incurred for packing the subject merchandise for shipment to the U.S. market is added to the amounts for COM, SG&A, profit and financial expenses. Packing costs are differentiated from packaging costs by the Department. Packing costs refer to materials that are used only for the shipment of the merchandise and is a separate component of CV. Packaging costs refers to materials that become an integral part of the merchandise that is sold and is included in the COM. For example, in Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil, 69 FR 47081 (August 4, 2004) a particular respondent "packaged" the processed shrimp in a plastic bag and mini box. After freezing, the mini boxes were "packed" in master cartons and shipped in a container for export. The respondent reported the costs of the plastic bags and mini boxes as packaging costs while the costs of master boxes, adhesive and wrap tapes, and wrapping buckles were reported as packing costs. Likewise, in Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty Administrative Review, 66 FR 36754 (July 13, 2001) ("Mushrooms from Indonesia") and accompanying Issues and Decision Memorandum at Comment 16, the cans and jars that contained the mushrooms were reported as packaging costs while the cartons and pallets used to pack the cans and jars for shipment were reported as packing costs.

2. Adjustments to CV

After adding COM, SG&A, profit, financial expenses, and packing, any required adjustments as per section 773(a)(8) of the Act are made to CV. These adjustments usually involve differences in the expenses for circumstances of sale in the two markets (i.e., the U.S. and the comparison markets). **See section VIII of this chapter for information on circumstance of sale adjustments.** Note that no adjustment is necessary for DIFMER because the COM of the U.S. subject merchandise (rather than the foreign like product) is used in computing CV (see section XI of this chapter for further explanation of DIFMER). Once these adjustments are made, you have computed CV. See part F of this section for sample calculations of CVs for U.S. EP and CEP sales.

C. SG&A and Profit Methodologies and Guidance for Quantifying and Valuing CV Components

The actual amounts of SG&A expenses incurred and profit realized in connection with the production and sale of a foreign like product (i.e., from sales in the EC or third-country market) in the ordinary course of trade of the product under investigation or review for the specific company under investigation are included in the calculation of CV. This calculation of SG&A is known as the "preferred methodology" (see section 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1)). When such data is unavailable, section 773(e)(2)(B) of the Act provides for alternative methodologies to be used in the calculation of SG&A and profit.

In accordance with section 773(f) of the Act, it is the Department's practice to use the respondent's own data to calculate the G&A and financial expense ratios. As such, the G&A and financial expenses included in the CV are respondent specific under the preferred and the alternative methodologies. See Mushrooms from Indonesia and accompanying Issues and Decision Memorandum at Comment 4**.**

1. Preferred Methodology

Specific guidelines for calculating selling expenses and profit using the preferred methodology are as follows:

a. Sales data from the selected market, i.e., the home or third-country market, is used as the basis for selling expenses and profit.

b. Selling expenses and profit are calculated on an average of foreign like products sold in the selected market, not on a model specific basis.

c. Selling expenses are derived from the home market sales list.

d. G&A expenses are calculated by applying the G&A expense ratio (based on the actual G&A expenses and COGS incurred) to the COM of the reported CONNUM. Net financial expenses are calculated by applying the net financial expense ratio to the COM of the reported CONNUM.

e. Profit is derived by first subtracting the CONNUM specific COPs from the prices in the selected market. Then an overall weighted-average profit ratio is calculated and applied to each CONNUM's COP.

The preferred methodology is used in situations where the CV is the NV for some of the models of the subject merchandise and the NV for rest of the models is the sale price of the merchandise sold above the COP in the comparison market (i.e., price to price comparison). The selling and profit components of CV are based on the merchandise that was sold in the ordinary course of trade. See Stainless Steel Sheet and Strip in Coils from Japan: Preliminary Determination of Sales at Less Than Fair Value, 64 FR 108, 114 (January 4, 1999).

Also, the preferred methodology is used in situations where the CV is the NV for all the models of the subject merchandise, in spite of a viable home market with above-cost sales (i.e., particular market situation does not permit a proper comparison with the EP or CEP). The selling and profit components of CV are based on the merchandise that was sold in the ordinary course of trade. See Large Newspaper Printing Presses From Japan.

2. Alternative Methodologies

In those instances where actual data are not available but the respondent has responded to the best of its ability, section 773(e)(2)(B) of the Act provides three, non-hierarchal alternatives to the preferred methodology. The alternative methodologies are used in situations where the CV is the NV for all the models of the subject merchandise.

a. Actual amounts incurred or realized on products of the same general category as the products under investigation sold in the EC by the company under investigation or review.

The Department is not normally able to use this alternative because 1) the respondent does not produce products other than the subject merchandise, 2) the respondent produces products of the same general category as the products under investigation but does not sell these products in the home market, or 3) the sales information of same general category of products is not on the record. For example, in Sulfanilic Acid from Portugal: Final Determination of Antidumping Duty Investigation of Sales at Less Than Fair Value, 67 FR 60219 (September 25, 2002) and accompanying Issues and Decision Memorandum at Comment 5, a respondent also produced and sold aniline, which is a major input of sulfanilic acid, and could be considered as the same general category of merchandise as sulfanilic acid. However, the Department was not able to use this alternative in that case to determine profit because there was insufficient information on the record in regard to the profit rate on the respondent's sales of aniline (i.e., the sales of aniline were not required to be reported).

b. The weighted-average of the actual costs incurred or realized by other companies under investigation or review for the production and sale of the foreign like product in the EC.

In Mushrooms from Indonesia, two respondents reported that they had no viable home or third country market and, therefore, no sales of the foreign like product during the POR (see, Mushrooms from Indonesia and accompanying Issues and Decision Memorandum at Comment 4). Since these respondents did not have any sales of the foreign like product, the use of these respondents' selling expenses and profit rates would not be representative of the costs associated with selling the foreign like product. Therefore, the Department used the weighted-average selling expense and profit ratios of two other respondents as representative ratios since both of those respondents did have sales of the foreign like product in the home market during the POR.

Note: In order to use this alternative there must be two or more other respondents in the same segment of the proceeding. This alternative can not be used if there is only one other respondent because the respondent-specific selling and profit information is business proprietary. Therefore, the use of only one respondent's data would be a violation of the administrative protective order.

c. Any other reasonable method.

To determine the most appropriate SG&A expenses and profit rate under this alternative, the Department weighs several factors. Among them are: (1) the similarity of the potential surrogate company's business operations and products to the respondent; (2) the extent to which the financial data of the surrogate company reflects sales in the United States as well as the home market; (3) the contemporaneity of the surrogate data to the POI; and (4) the similarity of the customer base (i.e., retail versus OEM). The greater the similarity in business operations, products, and customer base, the more likely that there is a greater correlation in the profit experience of the two companies. Normally, when the Department uses an alternative methodology, the data must be from the country under investigation or review. Consult with your supervisors or PM if an alternative methodology is proposed.

3. Quantifying and Valuing CV Components

Please see part C of section II of this chapter.

D. Transactions Disregarded and Major Input Rule (Affiliated Party Transactions)

Please see part D of section II of this chapter.

E. Important Procedures for COP/CV Investigations

Please see part F of section II of this chapter.

F. Sample Calculations For CV

1. Calculation of Unadjusted CV (i.e., the basis for CV in both U.S. EP and CEP sales

comparisons). Amounts shown are in foreign currency.

COM:

Materials	2.50	
Labor	1.50	
Variable Manufacturing Overhead	1.25	
Fix Manufacturing Overhead	<u>1.00</u>	
Total COM		6.25
SG&A Expenses (using the preferred methodology):		
G&A (<u>e.g.</u>, using a rate of 20% , 6.25*0.20)	1.25	
Direct Selling Expenses (<u>e.g.</u>, credit, warranty, and advertising expenses)	0.50	
Indirect Selling Expenses (<u>e.g.</u>, telephone, fax, and postal charges)	<u>0.45</u>	
Total SG&A Expenses		2.20
Financial Expenses (<u>e.g.</u>, using a rate of 10%, 6.25*0.10)		<u>0.63</u>
Total Cost Before Profit		9.08
Profit		0.42
Packing cost for U.S. Market		<u>0.35</u>
Total Unadjusted CV		**<u>9.85</u>**

2. Adjustments to CV for U.S. EP Sales Comparisons. Amounts shown are in foreign currency.

Unadjusted CV, from above		9.85
Less EC COS adjustments:		
EC Credit	0.07	
EC Warranty	0.03	
EC Advertisement	0.02	
EC Technical Services Expenses	<u>0.15</u>	

Total EC COS Adjustments		0.27
Adjusted CV in Foreign Currency		9.58
Conversion to U.S. Dollars (e.g., using an exchange rate of \$0.13, 9.58 * 0.13)		\$1.25
Plus U.S. Market COS amounts:		
U.S. Credit	\$ 0.06	
U.S. Warranty	0.01	
U.S. Advertising	0.04	
U.S. Technical Services	0.07	
Total U.S. COS		\$0.18
CV Adjusted for EC and U.S. Market COS		**\$1.43**

3. Adjustments to CV for U.S. CEP Sales Comparisons

Unadjusted CV, from above		9.85
Less EC COS adjustments:		
EC Credit	0.07	
EC Warranty	0.03	
EC Advertisement	0.02	
EC Technical Services Expenses	0.15	
Total EC COS Adjustments		0.27
Adjusted CV in Foreign Currency		9.58
Conversion to U.S. Dollars (e.g., using an exchange rate of \$0.13, 9.58 * 0.13)		**\$1.25**

Usually there are no amounts for U.S. direct and assumed selling expenses to be added to CV because these amounts are normally deducted from the U.S. sales price before a comparison is made to a U.S. CEP transaction.

IV. FURTHER MANUFACTURING COSTS

A. Use of further Manufacturing Costs

In some cases, an affiliated importer will further manufacture or assemble the subject merchandise before the first sale to an unaffiliated customer in the United States. For example, in Certain Cut-to-Length Carbon Quality Steel Plate Products from France: Preliminary Determination of Sales at Less Than Fair Value, 64 FR 41197, 41200 (July 29, 1999), the affiliated importer further manufactured imported steel plates into large diameter pipes used primarily in the construction of oil and gas pipelines, and sold the pipes to unaffiliated customers in the United States.

Section 772(d)(2) of the Act requires that the CEP shall be reduced by the cost of any further manufacture or assembly (including additional materials and labor), except in circumstances described in section 772(e) of the Act. Unless the Department determines that the value added after importation is "likely to exceed substantially" the value of imported goods, the respondent is required to report the further manufacturing costs to the Department.

Section 772(e) of the Act sets forth a special rule that under which the Department may exempt the respondent from reporting further manufacturing costs to the Department in those instances where the value added after importation "is likely to exceeds substantially" the value of the imported goods. For example, if roller chain subject to an antidumping order is imported by an affiliated importer for incorporation into a motorcycle which then is sold to an unaffiliated customer, there would be a burden on the Department if it were required to "back out" from the price of the motorcycle all the value added in the United States to determine the CEP of the roller chain. The Department's regulations, at 19 CFR 351.402(c)(2), further define instances where the value added "is likely to exceed substantially" the value of the subject merchandise as those instances where the Department estimates the value added to be at least 65 percent of the price charged to the first unaffiliated purchaser of the merchandise as sold in the United States. Normally, the Department will estimate the value added by the affiliated person based on the difference between the average price charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the average price paid for the subject merchandise by the affiliated person. In those instances where the Department finds that the special rule applies, section 772(e) of the Act directs the Department to determine the CEP for such merchandise using the price of identical or other subject merchandise sold by the exporter or producer to an unaffiliated customer if there is a sufficient quantity of sales to provide a reasonable basis for comparison and the Department determines that the use of such sales is appropriate. If there is not a sufficient quantity of these sales or the use of these sales is determined to be not appropriate, the Department is directed to use any other reasonable basis to determine the CEP.

For example, in Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews, 71 FR 12170, 12173 (March 9, 2006), the Department determined that the special rule for merchandise added after importation under section 772(e) of the Act applied to firms that added value in the United States.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser. Based, on this analysis, we determined that the estimated value added in the United States by all further-manufacturing firms, except NPB, accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. Therefore, we preliminarily determine that for these firms the value added is likely to exceed substantially the value of the subject merchandise. Also, for these firms, we determine that there was a sufficient quantity of sales remaining to provide a reasonable basis for comparison and that the use of these sales is appropriate...For NPB, we determined that the special rule did not apply because the value added in the United States did not exceed substantially the value of the subject merchandise. Consequently, this firm submitted complete responses to our further-manufacturing questionnaire which included the costs of further processing performed by its U.S. affiliates.

B. General Guidelines for the Calculation of Further Manufacturing or Assembly Costs

1. Further Manufacturing or Assembly Cost Components

Further manufacture or assembly costs include amounts incurred for direct materials, labor, factory overhead, general and administrative (G&A) expense, net financial expense, additional U.S. packing expense, and all costs involved in moving the product from the U.S. port of entry to the further manufacturer’s production facility or facilities. Further manufacturing costs requested are in section E of the Department’s antidumping questionnaire. The packing expenses are requested in section C of the antidumping questionnaire. In addition, the summation of the U.S. further manufacturing costs reported in the section E questionnaire response is reported in a separate data field of the U.S. sales file submitted in response to section C of the antidumping questionnaire.

a. Cost of Further Manufacturing

Further manufacturing costs include the direct materials, direct labor, and factory overhead costs incurred by an affiliated importer to further process the imported subject merchandise prior to the first unaffiliated sale.

1). Direct Materials Costs

All costs incurred for direct materials used to further manufacture the subject merchandise including transportation charges and other expenses normally associated with obtaining the materials that become an integral part of the finished product sold in the United States. Direct materials costs include only the costs incurred for materials added in the United States and not the cost of the imported subject merchandise. In addition, the costs incurred for 1) all movement charges incurred to transport the subject merchandise from the port of entry to the company's U.S. further manufacturing facilities, and 2) the actual costs incurred for any yield loss in connection with the further manufacture of the subject merchandise in the United States are included in the direct material costs. Please note that the yield loss is computed taking into account both the cost of the imported subject merchandise and the costs incurred for further manufacturing.

2) Direct Labor Costs

Direct labor costs include the costs incurred for all production workers, inspection/testing workers, relief workers, and all other workers directly involved in further manufacturing the subject merchandise in the United States. Direct labor should consist of the workers' base pay, overtime pay, incentive wages, shift differentials, bonuses, and all other forms of wages or benefits paid to them by the company (*e.g.* vacation, holidays, sick pay, insurance, government mandated social programs). In addition, direct labor costs include the full amount incurred for all contract labor hired by the company to further manufacture the merchandise.

3) Factory Overhead Costs

Factory overhead costs include all variable and fixed costs incurred at the plant other than those classified as direct material, direct labor, and packing costs. Normally, factory overhead costs include costs incurred for indirect materials, indirect labor, manufacturing utilities, building or equipment rental, depreciation, supervisory labor, plant property taxes, and factory administration. In addition, research and development (R&D) costs that relate specifically to the further manufacturing operations are included in factory overhead.

b. G&A Expenses

Included in the calculation of further manufacturing costs are the G&A expenses incurred by the affiliated further manufacturer. G&A expenses are those non-manufacturing, period expenses (i.e., expenses assigned to a particular period irrespective of production output in that period) which relate to the general operations of the company as a whole rather than to a particular production process, product or a division. G&A expenses include amounts incurred for general R&D activities, executive salaries and bonuses, and other operations relating to the company's U.S. corporate headquarters. Also included in G&A expenses is an amount for administrative services performed on the company's behalf by its parent company or other affiliated party.

G&A expenses are computed on an annual basis as a ratio of total company-wide G&A expenses divided by total company-wide cost of sales (less the cost of the imported subject merchandise). In calculating the company's G&A expense ratio, the further manufacturer uses the full-year G&A expense and cost of sales reported in the company's audited fiscal year financial statements for the fiscal year that most closely corresponds to the cost reporting period. To compute the per-unit amount of G&A expense for each product, the per-unit further manufacturing cost (FURCOM) reported in the further manufacturing cost database is multiplied by the G&A expense ratio.

c. Net Financial Expenses

We also include net financial expenses in the further manufacturing costs. In calculating net financial expenses for further manufacturing, the sum of the U.S. further manufacturer's interest expenses relating to both long- and short-term borrowing of the company and net foreign exchange gains and losses (if any) are reduced by the amount of interest income the further manufacturer earned on short-term investments of its working capital. If the further manufacturer's company is a member of a consolidated group of companies, net financial expenses are calculated based on the consolidated, audited fiscal year financial statements of the highest consolidation level available. In calculating the company's net financial expense ratio, the further manufacturer uses the full-year net financial expenses and cost of sales reported in the fiscal year financial statements for the period that most closely corresponds to the cost reporting period. To compute the per-unit amount of net financial expense for each product, the per-unit further manufacturing cost (FURCOM) reported in the further manufacturing cost database is multiplied by the net financial expense ratio. Normally, the cost of sales amount reported in the financial statements and used as a denominator to calculate the net financial expense ratio is adjusted in a similar manner as the cost of sales denominator used for the G&A expense ratio calculation. However, if the respondent's company and the U.S. further manufacturer are members of a same consolidated group of companies (i.e.,they have the same parent company), the net financial expense ratio used in the calculation of the COP and CV is also used in the calculation of further manufacturing costs because the ratio is calculated based on the consolidated financial statements of the parent company.

Please note that parts C and D of section II of this chapter also apply to further manufacturing costs.

C. Sample Calculation of Further Manufacturing or Assembly Costs

Further Cost of Manufacturing (FURCOM):	
Direct Materials	$1.79
Direct Labor	1.12
Factory Overhead	1.45
Total FURCOM	$4.36
G&A (*e.g.* using a rate of 22% , 4.36 * 0.22)	0.96
Financial Expenses (*e.g.* using a rate of 14%, 4.36 * 0.14)	0.61
Total Further Manufacturing or Assembly Costs (TOTFMG)	$5.93

The TOTFMG amount of $5.93 is then deducted from the first unaffiliated U.S. sale price, along with other sales adjustments as appropriate, to determine the CEP.

V. HIGH INFLATION ECONOMIES

A. Inflation and Its Effects

"High inflation" is a term used to refer to a high rate of increase in price levels. Investigations and administrative reviews involving exports from countries with highly inflationary economies require special methodologies for comparing prices and calculating CV, COP and differences in merchandise (difmer) adjustment..
When an economy is experiencing high inflation, the value of the country's currency is rapidly deteriorating, resulting in each local currency unit having substantially less real value over time. A greater nominal amount of the currency is required to purchase a product at a later point in time than was needed at an earlier point in time. Minor price fluctuations are normal and do not normally have a significant effect on our margin calculations. However, high increases in prices during the POI/POR can lead to distorted results. Even if real costs remain constant, because of the decline in the currency's value, the cost of the inputs used to produce the product under investigation or review would be expressed at a lower nominal value at the beginning of the POI/POR than at the end. Similarly, the price to home market customers purchasing the same domestic like product will be expressed at a lower nominal value at the beginning of the POI/POR than at the end of the POI/POR. If the inflation rate in the country under investigation or review is likely to distort the margin calculation with respect to costs and prices, a modified questionnaire should be used.

The standard questionnaire asks whether the annual inflation rate in the country under investigation or review exceeded 25 percent during the relevant period. The Department generally uses inflation statistics (e.g., the wholesale price index) published by the International Monetary Fund to determine whether the respondent's country experienced high inflation during the POI/POR. See Certain Steel Concrete Reinforcing Bar from Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (November 8, 2004) (Steel Concrete Reinforcing Bar from Turkey) and accompanying Issues and Decision Memorandum at Comment 2. If the annualized rate of inflation exceeds 25 percent, the Department will determine that the associated country experienced high inflation during the POI or POR. In deciding whether to apply the high inflation methodology, we base our calculations on the annualized rate of inflation over the relevant reporting period. See Ferrosilicon From Brazil; Final Results of Antidumping Duty Administrative Review, 61 FR 59407 (November 22, 1996) at Comment 1 where we decided not to treat Brazil as a high-inflation economy because the Brazilian inflation rate was less than 25%. For other cases where we have applied the 25 percent inflation threshold see Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia, 64 FR 73164 (December 29, 1999) at Comment 1 (Steel Plate Products from Indonesia); Silicomaganese from Brazil: Final Results of Antidumping Duty Administrative Review, 69 FR 13813 (March 24, 2004) and accompanying Issues and Decision Memorandum at Comment 4; Certain Pasta from Turkey; Notice of Preliminary Results of

Antidumping Duty Administrative Review, 69 FR 47876 (August 6, 2004), unchanged in final results, 70 FR 6834 (February 9, 2005)); Steel Concrete Reinforcing Bar from Turkey and accompanying Issues and Decision Memorandum at Comment 2; and Light Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 69 FR 19390 (April 13, 2004), unchanged in Final Results, 69 FR 53675 (September 2, 2004)). Moreover, we clarified in Steel Plate Products from Indonesia that if the rate of inflation is determined to be at least 25% for the POI or POR as a whole, we use our high inflation methodology for the entire POI or POR. In such instances, the high-inflation methodology is used even if the rate of inflation is less than 25% for one or more individual months of the POI or the POR.

When the Department determines inflation to have a distortive effect on our analysis, we generally make our price-to-price, price-to-CV and price-to-COP comparisons over shorter periods of time during which inflation will have a less distortive effect. For example, when inflation exceeds 25 percent per year, we limit our averaging of CM sales to sales within the same month as the U.S. sale to which they will be compared. In investigations, this means we weight average prices on a monthly basis. For COP and CV, we generally compute a monthly cost that is based on the weighted average of all monthly costs as indexed for inflation over the POI/POR. This methodology is illustrated below under "calculation of cost of production and constructed value." EC sales, U.S. sales, COP and CV are stated in nominal currency of approximately the same value when they are compared to each other.

B. Calculation of Cost of Production and Constructed Value

In countries experiencing high inflation, the nominal value of production costs increases over time, even where such costs, expressed in real terms, remains constant. This may cause distortions in our antidumping analysis because of our practice of comparing period-average COP and CV amounts to transaction-specific prices during the POI or POR. As an example of this distortion, consider a sales-below-cost analysis where real production costs remain constant but, because of high inflation, nominal costs rise throughout the POI. Under this scenario, a period-average COP figure based on monthly nominal costs would tend to be higher than individual sales prices occurring at the beginning of the period, but lower than prices at the end of the period. Depending on the timing of the home market sales, this could result in an excessive quantity of below-cost sales at the beginning of the period or, conversely, an overstatement of the number of above-cost sales at the end of the period. These same distortions exist when we compare U.S. prices to CV based on period average costs in high inflation economies.

To help mitigate the distortions in our antidumping analysis caused by high inflation and rapidly escalating costs, we may compute the period-average COP and CV on a constant currency basis using inflation indices during the period. By adjusting the monthly COP figures, it is possible to restate the COP average in terms of the currency value in each month. The table below illustrates how inflation indices can be used to compute the weighted-average cost of manufacturing (COM) for COP and CV:

Month	Per-Unit Nominal COM	Total Production Quantity	Total Nominal COM	Inflation Indices	Total Inflation-Adjusted COM	Per-Unit Inflation-Adjusted COM
January	$ 8.00	25	$ 200	1.00	$ 430	$ 8.05
February	8.00	26	208	1.10	407	8.86
March	9.00	30	270	1.25	464	10.06
April	10.00	28	280	1.30	463	10.47
May	11.00	25	275	1.42	416	11.43
June	13.00	19	247	1.55	343	12.48
July	15.00	13	195	1.60	262	12.88
August	15.00	12	180	1.73	224	13.93
September	16.00	17	272	1.85	316	14.89
October	16.00	19	304	1.91	342	15.38
November	17.00	21	357	2.00	384	16.10
December	18.00	24	432	2.15	432	17.31
Total		259			$ 4,483	

In this example, the monthly amounts shown in the "Total Inflation-Adjusted COM" column were calculated by multiplying the total nominal cost for each month by the ratio of December's inflation index to the inflation index for the month of production. For example, the March inflation-adjusted cost of $464 was calculated as $270 x (2.15/1.25). In this way, monthly nominal costs are adjusted for the cumulative effects of inflation to the end of the POI or POR. Once all monthly production costs have been expressed in common, inflation-adjusted currency values, the figures can be added together in order to compute a weighted-average cost for the product. In the example above, the weighted-average cost for the period is $17.31, which is calculated as the sum of the monthly inflation-adjusted costs, $4,483 divided by the total production quantity of 259 units.

Note that the weighted-average cost of $17.31 per unit represents production costs expressed in

December's currency value; that is, at the end of the period for which costs were reported. To obtain the weighted-average cost of the product expressed in the currency value for any other month, as shown in the "Per-Unit Inflation-Adjusted COM" column, we need only "deflate" December's per-unit cost using the same inflation indices. For example, March's inflation-adjusted cost of $10.06 per unit is calculated as $17.31 x (1.25/2.15). In a sales-below-cost analysis, the $10.06 figure would be used to compute total COP for comparison to EC sales prices during the month of March. Likewise, the same inflation-adjusted cost figure of $10.06 would be used to compute CV for comparison to U.S. sales made in March.
In selecting an appropriate index for use in calculating COP and CV in your case, you should consider indices commonly used in business applications in the high inflation economy country, preferably on a sector-specific basis. If reliable sector-specific indices are not available, indices can be based on the wholesale or consumer price index, as appropriate, or on the rate of inflation of the country's exchange rate against the U.S. dollar. Because countries experiencing high inflation usually maintain several indices which may change over time, or maintain multiple exchange rate systems, it may be difficult to develop a general list of indices/exchange rates to be used for each country. Therefore, the decision to use indexation and the selection of an appropriate index/exchange rate system should be made on a case-by-case basis. See Import Administration Policy Bulletin 94.5.

C. **Calculation of Differences in Merchandise Adjustments**

As discussed above, in cases involving high inflation, we normally compare U.S. sales prices to EC sales made in the same month. However, where we match non-identical products, inflation may distort our comparisons when production of the either the U.S. or EC product does not occur in the month of sale. These distortions result from the fact that the difmer adjustment that we use to adjust for physically dissimilar merchandise is calculated as the difference between variable production costs incurred in producing the U.S. and EC products. In high inflation environments, nominal costs in one month cannot be meaningfully compared to nominal costs in another month without first restating them in similar currency values. In addition, as shown above for COP and CV, monthly costs may vary in real terms, and thus, a weighted-average variable cost for the period must be calculated for the U.S. and EC products prior to computing any difmer adjustment.

To illustrate how we calculate the difmer adjustment in cases involving high-inflation economies, assume that the U.S. sale occurred in May at a per-unit price of $10.00. Production of the U.S. merchandise occurred only during the three-month period from May through July. The table below provides information regarding the variable costs incurred in manufacturing the U.S. product. The information is reported in the local currency (LC) of the exporting country.

Month	Per-Unit Nominal VCOM	Total Producti on	Total Nominal VCOM	Inflation Indices	Total Inflation-Adjusted	Per-Unit Inflation-Adjusted

		Quantity			VCOM	VCOM
January	-	-	-	100	-	-
February				134	-	-
March	-	-	-	201	-	-
April	-	-	-	293	-	-
May	LC 51.00	40	LC 2,040	404	LC 4,408	LC 45.67
June	68.00	40	2,720	647	3,670	73.13
July	95.00	50	4,750	873	4,750	98.68
Totals		130	LC 9,510		LC 12,828	

Note that the inflation-adjusted variable cost figures in the table are calculated using the same method shown above under "Calculation of Cost of Production and Constructed Value." That is, using the inflation indices, the total nominal cost figures in each month are indexed to the last month in which production occurred (i.e., the month of July) in order to compute a weighted-average cost of LC 98.68, or LC 12,828 divided by production quantity of 130 units. The inflation-adjusted variable cost figure for May of LC 45.67 is then computed as LC 98.68 ^{x} (404/873).

To continue the illustration, during the month of May, the EC model most similar to the U.S. product was sold at a per-unit price of LC 70.00. The average exchange rate for May was LC 6.00 to $1.00. Production of the similar EC model, however, occurred only during two three-month periods, January through March and September through November. The variable costs incurred for the EC product are shown in the table below.

Month	Per-Unit Nominal VCOM	Total Production Quantity	Total Nominal VCOM	Inflation Indices	Total Inflation-Adjusted VCOM	Per-Unit Inflation-Adjusted VCOM
January	LC 10.00	50	LC 500	100	LC 26,705	LC 10.17
February	14.00	45	630	134	25,111	13.63
March	22.00	55	1,210	201	32,152	20.44
April	-	-	-	293	-	29.80

May	-	-	-	404	-	41.09
June	-	-	-	647	-	65.80
July	-	-	-	873	-	88.79
August	-	-	-	1240	-	126.11
September	173.00	60	10,380	1870	29,647	190.19
October	242.00	60	14,520	2518	30,799	256.09
November	387.00	50	19,350	3514	29,410	357.39
December	-	-	-	5341	-	543.20
Total		320			LC 173,824	

Although the EC product was not manufactured during May, the month of the U.S. sale, we can derive a variable cost of LC 41.09 for the product using the weighted-average cost at the end of the period and the inflation indices, or LC 543.20 ^{x} (404/5341). We can then calculate the difmer adjustment and normal value as follows:

Difmer = EC VCOM – U.S. VCOM → LC 41.09 – LC 45.67 = (-4.58)

Normal Value = EC Price – Difmer → LC 70.00 – LC (-4.58) = LC 74.58

To calculate the dumping margin in this example, we convert NV to U.S. dollars using the average exchange rate of LC 6.00 to $1.00 to derive the foreign unit price in U.S. dollars of $10.90. Comparing the dollar-denominated NV to the U.S. price of $10.00 results in a dumping margin of $0.90, or 9.0 percent, calculated as ($10.90 - $10.00)/$10.00.

Pursuant to Section 773(f)(1), we normally calculate the COP and CV based on the records of the producer if such records are kept in accordance with GAAP of the country and reasonably reflect the costs associated with the production and sale of the merchandise. However, in some countries experiencing high inflation, GAAP of the country cannot be used because, for example, the accounting records and financial statements have not been adjusted for the effects of inflation. Companies in countries with a long history of high inflation may maintain their accounting records and prepare their financial statements on an inflation-adjusted basis following the GAAP of the country. Such data may be useful for DOC purposes, and may be used as an alternative to indexation by the DOC provided that the data are derived in a way that does not distort antidumping margins. You should check with the OA if costs in your case are submitted in "constant currency" terms.

Where inputs are purchased in U.S. dollars, or for an unspecified amount in foreign currency corresponding to a stated amount of U.S. dollars, we may use the dollar acquisition cost because the dollar is not subject to major inflation. Similarly, where prices of materials and wages remain constant due to government controls, the reported costs in the company's records reflect the current value of these costs, and need not be indexed. For certain types of cost (e.g., depreciation), we may rely on the historical cost adjusted for inflation by indexing or other methods.

Other areas of special consideration in the calculation of COP and CV include G&A expenses and finance (interest) costs. For G&A expenses, the monthly amounts that comprise fiscal year historical costs may be indexed to obtain a year-end average. Interest expense will be calculated differently depending on the lending terms and the country's GAAP. However, we have calculated G&A expenses and finance costs based on indexed financial statements, rather than historical statements, if maintained by the respondent in the ordinary course of business. See Oil Country Tubular Goods from Mexico, 60 FR 33567 (June 28, 1995).