filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. Because the case number is the same for four antidumping duty orders covering different products from China, we request that all submissions clearly identify the order for which the submission is being made by product name as listed above. In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–16817 Filed 6–30–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On February 23, 1999, the Department of Commerce published the preliminary results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom. The classes or kinds of merchandise covered by these orders are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The reviews cover 21 manufacturers/exporters. The period of review is May 1, 1997, through April 30, 1998.

Based on our analysis of the comments received, we have made changes, including corrections of certain programming and other clerical errors, in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Reviews."

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION: Please contact the appropriate case analysts for the various respondent firms as listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

France

Lyn Johnson (SKF), Larry Tabash or Davina Hashmi (SNFA), J. David Dirstine (SNR), Robin Gray, or Richard Rimlinger.

Germany

Mark Ross (INA and Torrington Nadellager), Farah Naim or Davina Hashmi (SKF), Thomas Schauer (FAG), Robin Gray, or Richard Rimlinger.

Italy

Anne Copper or J. David Dirstine (SKF), Edythe Artman or Mark Ross (FAG), Minoo Hatten (Somecat), Robin Gray, or Richard Rimlinger.

Japan

J. David Dirstine (Koyo and Nachi), Thomas Schauer (NTN), Davina Hashmi (NPBS), Diane Krawczun (NSK), Robin Gray, or Richard Rimlinger.

Romania

Suzanne Flood (TIE, S.A.) or Robin Gray.

Sweden

Davina Hashmi (SKF) or Richard Rimlinger.

United Kingdom

Stacey King (Barden), Diane Krawczun (NSK/RHP), Hermes Pinilla (FAG), Lyn Johnson (SNFA U.K.), Robin Gray, or Richard Rimlinger.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

Background

On February 23, 1999, the Department of Commerce (the Department) published the preliminary results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom (64 FR 8790). The reviews cover 21 manufacturers/exporters. The period of review (POR) is May 1, 1997, through April 30, 1998. We invited parties to comment on the preliminary results of reviews. At the request of certain interested parties, we held hearings for Germany-specific issues on April 1, 1999, and for Japan-specific issues on April 6, 1999. The Department has conducted these administrative reviews in accordance with section 751 of the Act.

Scope of Reviews

The products covered by these reviews are AFBs and constitute the following classes or kinds of merchandise: ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). For a detailed description of the products covered under these classes or kinds of merchandise, including a compilation of all pertinent scope determinations, see the ''Scope Appendix,'' which is appended to this notice of final results.

Duty Absorption

We have determined that duty absorption has occurred with respect to the following firms and with respect to the following percentages of sales which these firms made through their U.S. affiliated parties:

Name of firm	Class or kind	Percentage of U.S. affiliate's sales with dumping margins
France		
SKF	BBs	18.44
SNR	BBs	5.14
	CRBs	10.27
Germany		
SKF	BBs	3.17
	CRBs	33.52
	SPBs	20.31
Torrington Nadellager.	CRBs	0.26
FAG	BBs	10.31
	CRBs	24.59
INA	BBs	9.14
	CRBs	9.24
	SPBs	3.53
Italy		
FAG	BBs	10.38
SKF	BBs	20.73
Japan		
Koyo	BBs	29.73
	CRBs	47.46
Nachi	BBs	43.96
	CRBs	8.04
NPBS	BBs	9.75
NSK	BBs	4.89
	CRBs	16.23
NTN	BBs	28.83
	CRBs	32.57
	SPBs	57.17
Sweden		
SKF	BBs	4.16
	CRBs	100.00
United Kingdom		
Barden	BBs	19.43
NSK/RHP	BBs	31.46
	CRBs	47.88

For a discussion of our determination with respect to this matter, see the ''Duty Absorption'' section of the Issues Appendix.

Use of Facts Available

For a discussion of our application of facts available, see the ''Facts Available'' section of the Issues Appendix.

Sales Below Cost in the Home Market

The Department disregarded home-market sales that failed the cost test for the following firms and classes or kinds of merchandise for these final results of reviews:

Country	Company	Subject merchandise
France	SKF	BBs.
	SNR	BBs.
Germany	SKF	BBs, CRBs, SPBs.
	FAG	BBs, CRBs.
	INA	BBs, CRBs, SPBs.
Italy	FAG	BBs.
	SKF	BBs.
Japan	Koyo	BBs, CRBs.
	Nachi	BBs, CRBs.
	NSK	BBs, CRBs.
	NTN	BBs, CRBs, SPBs.
	NPBS	BBs.
Sweden	SKF	BBs.
United Kingdom	Barden	BBs.
	NSK–RHP	BBs, CRBs.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made revisions that have changed our results. We have corrected programming and clerical errors in our preliminary results, where applicable. Any alleged programming or clerical errors about which we or the parties do not agree are discussed in the relevant sections of the Issues Appendix.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these concurrent administrative reviews of AFBs are addressed in the ''Issues Appendix,'' which is appended to this notice of final results.

Final Results of Reviews

We determine that the following percentage weighted-average margins exist for the period May 1, 1997, through April 30, 1998:

Company	BBs	CRBs	SPBs
France			
SKF	7.40	(2)	7.39
SNFA	0.41	0.21	(2)
SNR	0.31	0.37	(1)
Germany			
SKF	1.23	5.47	3.06
Torrington Nadellager	(2)	0.45	(3)
FAG	2.93	8.92	(1)
INA	7.38	3.88	0.87
Italy			
FAG	0.96	(1)	
SKF	3.42	(3)	
Somecat	0.45	(2)	
Japan			
Koyo Seiko	7.23	11.15	(1)

Company	BBs	CRBs	SPBs
Nachi	4.33	1.02	(1)
NPBS	1.20	(2)	(2)
NSK Ltd.	1.12	4.55	(2)
NTN	6.13	3.48	12.49
Romania			
TIE	0.07		
Sweden			
SKF	2.87	13.69	
United Kingdom			
Barden	2.89	(1)	
FAG (U.K.)	(1)	(1)	
NSK–RHP	21.02	49.13	
SNFA	0.00	(2)	

(1) No shipments or sales subject to this review. The cash-deposit rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.
(2) No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.
(3) No review.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer- or customer-specific assessment rate or value for subject merchandise.

a. Export Price Sales

With respect to export price (EP) sales for these final results, we divided the total dumping margins (calculated as the difference between normal value and EP) for each importer/customer by the total number of units sold to that importer/customer. We will direct the Customs Service to assess the resulting per-unit dollar amount against each unit of merchandise on each of that importer's/customer's entries under the relevant order during the review period.

b. Constructed Export Price Sales

For constructed export price (CEP) sales (sampled and non-sampled), we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. When an affiliated party acts as an importer for EP sales we have included the applicable EP sales in this assessment-rate calculation. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

Cash-Deposit Requirements

To calculate the cash-deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in these reviews) we divided the total dumping duties due for each company by the total net value for that company's sales of merchandise during the review period subject to each order.

In order to derive a single deposit rate for each order for each respondent, we weight-averaged the EP and CEP deposit rates (using the EP and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. We then divided the combined total dumping margins for both EP and CEP sales by the combined total value for both EP and CEP sales to obtain the deposit rate.

We will direct the Customs Service to collect the resulting percentage deposit rate against the entered customs value of each of the exporter's entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative reviews for all shipments of AFBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash-deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*, the Department shall not require a deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be the "All Others" rate for the relevant order made effective by the final results of review published on July 26, 1993 (see *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993), and, for BBs from Italy, see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al: Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 61 FR 66472 (December 17, 1996)). These rates are the "All Others" rates from the relevant LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 23, 1999.

Richard W. Moreland

Acting Assistant Secretary for Import Administration.

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Scope Appendix

A. Description of the Merchandise

The products covered by these orders, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), constitute the following classes or kinds of merchandise:

1. *Ball Bearings and Parts Thereof*: These products include all AFBs that employ balls as the roller element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. Imports of these products are classified under the following Harmonized Tariff Schedule (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

2. *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof*: These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

3. *Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof*: These products include all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.50.10, 8483.30.80, 8483.90.30, 8485.90.00, 8708.93.5000, 8708.99.50, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

The HTS item numbers are provided for convenience and customs purposes. They are not determinative of the products subject to the orders. The written descriptions remain dispositive.

Size or precision grade of a bearing does not influence whether the bearing is covered by the orders. These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of these orders. For unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those that will be subject to heat treatment after importation.

The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scopes of these orders.

B. Scope Determinations

The Department has issued numerous clarifications of the scope of the orders. The status of the following products was decided during the investigation:

Products covered:

- Rod end bearings and parts thereof
- AFBs used in aviation applications
- Aerospace engine bearings
- Split cylindrical roller bearings
- Wheel hub units
- Wave generator bearings
- Bearings (including mounted or housed units and flanged or enhanced bearings) ultimately utilized in textile machinery

Products excluded:

- Plain bearings other than spherical plain bearings
- Airframe components unrelated to the reduction of friction
- Linear motion devices
- Split pillow block housings
- Nuts, bolts, and sleeves that are not integral parts of a bearing or attached to a bearing under review
- Thermoplastic bearings
- Stainless steel hollow balls
- Textile machinery components that are substantially advanced in function(s) or value
- Wheel hub units imported as part of front and rear axle assemblies; wheel hub units that include tapered roller bearings; and clutch release bearings that are already assembled as parts of transmissions
- Slewing rings and slewing bearings

In addition, since the time of the investigation the Department has issued the following rulings:

Scope rulings completed between April 1, 1990, and June 30, 1990 (see *Scope Rulings*, 55 FR 42750 (October 23, 1990)):

Products excluded:

- Antifriction bearings, including integral shaft ball bearings, used in textile machinery and imported with attachments and augmentations sufficient to advance their function beyond load-bearing/friction-reducing capability

Scope rulings completed between July 1, 1990, and September 30, 1990 (see

Scope Rulings, 55 FR 43020 (October 25, 1990)):

Products covered:
- Rod ends
- Clutch release bearings
- Ball bearings used in the manufacture of helicopters
- Ball bearings used in the manufacture of disk drives

Scope rulings published in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; Final Results of Antidumping Administrative Review*, 56 FR 31692, 31696 (July 11, 1991):

Products covered:
- Load rollers and thrust rollers, also called mast guide bearings
- Conveyor system trolley wheels and chain wheels

Scope rulings completed between April 1, 1991, and June 30, 1991 (see *Scope Rulings*, 56 FR 36774 (August 1, 1991)):

Products excluded:
- Textile machinery components including false twist spindles, belt guide rollers, separator rollers, damping units, rotor units, and tension pulleys

Scope rulings completed between July 1, 1991, and September 30, 1991 (see *Scope Rulings*, 56 FR 57320 (November 8, 1991)):

Products covered:
- Snap rings and wire races
- Bearings imported as spare parts
- Custom-made specialty bearings

Products excluded:
- Certain rotor assembly textile machinery components
- Linear motion bearings

Scope rulings completed between October 1, 1991, and December 31, 1991 (see *Scope Rulings*, 57 FR 4597 (February 6, 1992)):

Products covered:
- Chain sheaves (forklift truck mast components)
- Loose boss rollers used in textile drafting machinery, also called top rollers
- Certain engine main shaft pilot bearings and engine crank shaft bearings

Scope rulings completed between January 1, 1992, and March 31, 1992 (see *Scope Rulings*, 57 FR 19602 (May 7, 1992)):

Products covered:
- Ceramic bearings
- Roller turn rollers
- Clutch release systems that contain rolling elements

Products excluded:
- Clutch release systems that do not contain rolling elements
- Chrome steel balls for use as check valves in hydraulic valve systems

Scope rulings completed between April 1, 1992, and June 30, 1992 (see *Scope Rulings*, 57 FR 32973 (July 24, 1992)):

Products excluded:
- Finished, semiground stainless steel balls
- Stainless steel balls for non-bearing use (in an optical polishing process)

Scope rulings completed between July 1, 1992, and September 30, 1992 (see *Scope Rulings*, 57 FR 57420 (December 4, 1992)):

Products covered:
- Certain flexible roller bearings whose component rollers have a length-to-diameter ratio of less than 4:1
- Model 15BM2110 bearings

Products excluded:
- Certain textile machinery components

Scope rulings completed between October 1, 1992, and December 31, 1992 (see *Scope Rulings*, 58 FR 11209 (February 24, 1993)):

Products covered:
- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Products excluded:
- Certain cartridge assemblies comprised of a machine shaft, a machined housing and two standard bearings

Scope rulings completed between January 1, 1993, and March 31, 1993 (see *Scope Rulings*, 58 FR 27542 (May 10, 1993)):

Products covered:
- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Scope rulings completed between April 1, 1993, and June 30, 1993 (see *Scope Rulings*, 58 FR 47124 (September 7, 1993)):

Products covered:
- Certain series of INA bearings

Products excluded:
- SAR series of ball bearings
- Certain eccentric locking collars that are part of housed bearing units

Scope rulings completed between October 1, 1993, and December 31, 1993 (see *Scope Rulings*, 59 FR 8910 (February 24, 1994)):

Products excluded:
- Certain textile machinery components

Scope rulings completed between January 1, 1994, and March 31, 1994:

Products excluded:
- Certain textile machinery components

Scope rulings completed between October 1, 1994 and December 31, 1994 (see *Scope Rulings*, 60 FR 12196 (March 6, 1995)):

Products excluded:
- Rotek and Kaydon—Rotek bearings, models M4 and L6, are slewing rings outside the scope of the order.

Scope rulings completed between April 1, 1995 and June 30, 1995 (see *Scope Rulings*, 60 FR 36782 (July 18, 1995)):

Products covered:
- Consolidated Saw Mill International (CSMI) Inc.—Cambio bearings contained in CSMI's sawmill debarker are within the scope of the order.
- Nakanishi Manufacturing Corp.—Nakanishi's stamped steel washer with a zinc phosphate and adhesive coating used in the manufacture of a ball bearing is within the scope of the order.

Scope rulings completed between January 1, 1996 and March 31, 1996 (see *Scope Rulings*, 61 FR 18381 (April 25, 1996)):

Products excluded:
- Marquardt Switches—Medium carbon steel balls imported by Marquardt are outside the scope of the order.

Scope rulings completed between April 1, 1996 and June 30, 1996 (see *Scope Rulings*, 61 FR 40194 (August 1, 1996)):

Products excluded:
- Dana Corporation—Automotive component, known variously as a center bracket assembly, center bearings assembly, support bracket, or shaft support bearing, is outside the scope of the order.
- Rockwell International Corporation—Automotive component, known variously as a cushion suspension unit, cushion assembly unit, or center bearing assembly, is outside the scope of the order.
- Enkotec Company, Inc.—''Main bearings'' imported for incorporation into Enkotec Rotary Nail Machines are slewing rings and, therefore, are outside the scope of the order.

Scope ruling January 19, 1999, memorandum from Laurie Parkhill to Richard W. Moreland:

Products excluded:
- Nissei Sangyo America, Ltd.—Certain vacuum nozzle assembly, designated as part 630–063–2316, is outside the scope of the order.

Scope ruling February 26, 1999, memorandum from Laurie Parkhill to Richard W. Moreland:

Products excluded:

- Holland Hitch—''Turntable bearing'' (slewing rings, gearless slewing rings, or slewing bearings) is outside the scope of the order.

Issues Appendix

Company Abbreviations

Barden—Barden Corporation (U.K.) Ltd.; the Barden Corporation
FAG Italy—FAG Italia S.p.A.
FAG Germany—FAG Kugelfischer Georg Shaefer AG
FAG U.K.—FAG (U.K.) Ltd.
INA—INA Walzlager Schaeffler KG
Koyo—Koyo Seiko Co. Ltd.
Nachi—Nachi-Fujikoshi Corp.; Nachi America Inc.; Nachi Technology, Inc.
NPBS—Nippon Pillow Block Manufacturing Co., Ltd.; Nippon Pillow Block Sales Co., Ltd.; FYH Bearing Units USA, Inc.
NSK—Nippon Seiko K.K.; NSK Corporation
NSK/RHP—NSK Bearings Europe, Ltd.; RHP Bearings; RHP Bearings, Inc.
NTN—NTN Corporation; NTN Bearing Corporation of America; American NTN Bearing Manufacturing Corporation
SNR France—SNR Roulements
SKF France—SKF Compagnie d'Applications Mecaniques, S.A. (Clamart); ADR; SARMA
SKF Germany—SKF GmbH; SKF Service GmbH; Steyr Walzlager
SKF Italy—SKF Industrie; RIV-SKF Officina de Villar Perosa; SKF Cuscinetti Speciali; SKF Cuscinetti; RFT
SKF Group—SKF-France; SKF-Germany; SKF-Italy; SKF-Sweden; SKF USA, Inc.
SKF Sweden—SKF Sverige AB
SNFA France—SNFA S.A.
SNFA U.K.-SNFA Bearings, Ltd.
Somecat—Somecat S.p.A.
TIE—Tehnoimportexport
Torrington—The Torrington Company
Torrington Nadellager—Torrington Nadellager, GmbH

Other Abbreviations

CAFC—Court of Appeals for the Federal Circuit
COP—Cost of Production
CV—Constructed Value
CEP—Constructed Export Price
CIT—Court of International Trade
G&A—General and Administrative Expenses
EP—Export Price
NME—Non-market Economy
OEM—Original Equipment Manufacturer
POR—Period of Review
SAA—Statement of Administrative Action
URAA—Uruguay Round Agreements Act

AFB Administrative Determinations

LTFV Investigation—Final Determinations of Sales at Less than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 19006 (May 3, 1989).

AFBs 1—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31692 (July 11, 1991).

AFBs 2—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360 (June 24, 1992).

AFBs 3—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993).

AFBs 4—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900 (February 28, 1995).

AFBs 5—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996).

AFBs 6—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 62 FR 2081 (January 15, 1997).

AFBs 7—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 62 FR 54043 (October 17, 1997).

AFBs 8—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 63 FR 33320 (June 18, 1998).

Comments and Responses

1. Facts Available

Comment 1: Torrington contends that NTN refused to (1) explain its method for distinguishing subject CRBs from nonsubject needle roller bearings, (2) provide adequate documentation to support its claim that it could not obtain sales information from affiliated home-market resellers, (3) report the total downstream value of merchandise sold by affiliated home-market resellers on a class-or-kind basis for companies in which NTN owns a majority interest, (4) revise its calculation of home-market and U.S. inventory carrying costs in accordance with the Department's instructions, (5) explain an apparent discrepancy between its narrative description and its reported home-market packing expenses, (6) provide supplemental information regarding its U.S. indirect selling expenses for which the Department asked, (7) recalculate its freight and packing expenses on the basis on which they were incurred, and 8) segregate U.S. warehousing expenses as instructed by the Department. Citing *Koyo Seiko Co., Ltd.* v. *United States*, 92 F.3d 1162, 1166–1167 (CAFC 1996), Torrington argues that the Department should apply total adverse facts available because of NTN's refusal to cooperate.

NTN asserts that it answered all of the Department's requests for information fully and completely. NTN contends that the case Torrington cites is irrelevant because it interpreted the pre-URAA statutory provision for best information available. NTN also contends that the Department has verified and approved NTN's data and methodologies in almost every single past review of this case. Citing *Borden* v. *United States*, 4 F. Supp. 2d 1221, 1244 (CIT 1998) (*Borden*), NTN argues that the Department must use a respondent's information, regardless of the condition of the information, if the criteria of section 782(e) of the Act have been met. Regarding its own situation, NTN claims that it has met the statutory criteria.

NTN argues that, in contrast to Torrington's argument, it has explained how it segregated subject CRBs from nonsubject needle roller bearings and that the Department has verified its methodology in prior reviews. NTN argues that the Department asked that NTN report downstream-sales information only where possible and that NTN explained that it was not possible to provide such information. With respect to inventory carrying costs, NTN argues that the Department asked that NTN report these costs on a particular basis only where possible and that NTN explained that it was not possible. With respect to indirect selling expenses, NTN contends that it provided detailed explanations of each of its worksheets and that Torrington did not offer any substantive argument regarding the merit of the worksheets. With respect to freight and packing expenses, NTN contends that it explained why it could not allocate the expenses on the basis on which they were incurred and that the Department has verified NTN's methodology in prior reviews. Finally, NTN argues that the Department segregated warehousing expenses itself in the preliminary results.

Department's Position: For the majority of items which Torrington raised, NTN provided adequate information which we could use to calculate NTN's margin. More specifically, with respect to the segregation of subject CRBs from nonsubject needle roller bearings, we have verified NTN's methodology in past reviews and found it to be acceptable and there is no evidence in these reviews that NTN either reported sales of nonsubject merchandise or did not report sales of subject merchandise. With regard to warehousing expenses, as NTN observes, we were able to segregate these expenses for the preliminary results. With regard to U.S. indirect selling expenses, we find that NTN excluded the adjustments to which Torrington refers from its indirect selling expense calculation properly.

We find, however, that NTN should have addressed an adjustment elsewhere in the response but did not. We are unable to discuss this adjustment further due to the proprietary nature of this data (see NTN final results analysis memorandum dated June 16, 1999, for our analysis, a description of this adjustment, and how we addressed it in our analysis of NTN).

Because NTN's responses to our requests for information allowed us to calculate margins, it would not be appropriate to base NTN's margin on total facts available.

However, we find that NTN's responses to our requests for the total value of sales by home-market affiliates and for revised home-market packing expenses is not adequate for us to use in calculating NTN's margin. Therefore, the use of partial facts available for these items is appropriate. Further, we determine that, because NTN did not act to the best of its ability in responding to our requests for information concerning these items, the use of adverse facts available is warranted for these items.

With regard to sales by home-market affiliates, we requested that NTN report the total value of sales by affiliates on a class-or-kind basis. We also requested that, if NTN could not "obtain this information for all affiliated resellers, please provide it for at least those companies in which NTN owns a majority interest." See supplemental questionnaire dated September 24, 1998, at 1. We asked this question to determine whether sales to affiliates would be a reasonable substitute for sales by affiliates in our calculation of normal value. Because NTN did not provide this information, we are not able to make this determination. Therefore, the use of facts available is warranted.

Contrary to NTN's assertion, we did not indicate in our supplemental questionnaire that NTN should only report this "where possible." Instead, we indicated that, if NTN could not obtain this information from affiliates in which it does not own a majority interest, NTN should at least obtain this information from affiliates in which it does own a majority interest. Furthermore, NTN's explanation for why it could not obtain this information from those companies in which it owns a majority interest is not convincing. We are unable to go into further detail due to the proprietary nature of the explanation. See NTN final results analysis memorandum dated June 16, 1999, for our analysis of NTN's explanation and why we find it unsatisfactory.

As a result of our analysis, we determine that NTN did not act to the best of its ability in responding to our requests for information concerning sales by affiliated resellers. Therefore, the use of the adverse facts available with regard to NTN's sales by affiliated resellers in which NTN owns a majority interest is appropriate. The use of facts available affects the calculation of normal value. Therefore, where we compared U.S. sales to weighted-average normal values which are wholly or partly comprised of sales to affiliated resellers in which NTN owns a majority interest, we applied facts available. Because it is appropriate to use the facts available to the extent we use these sales to calculate normal value, we have adjusted the calculated net prices of these sales by increasing them by the class-or-kind-specific adverse facts-available rate applicable to NTN. In this manner, we ensure that the facts available are being used only when the sales are used to calculate normal value and, in instances where such sales are weight-averaged with sales to unaffiliated companies, the facts available are "diluted" accordingly.

Finally, with regard to home-market packing expenses, NTN did not revise its packing-expense calculation in the manner we requested nor did it attempt to do so. NTN stated merely that it does not keep records in that manner and made no attempt at a more reasonable segregation pursuant to our request. In addition, NTN's methodology is distortive. However, due to the proprietary nature of NTN's calculation, we are unable to explain the decision. See NTN final results analysis memorandum dated June 16, 1999, for an explanation of why we consider NTN's calculation to be distortive. Therefore, because NTN did not attempt to revise its packing expenses in the manner we requested and did not offer a reasonable alternative and because the methodology it used is manifestly distortive, we have denied NTN's home-market packing adjustment for these final results.

Comment 2: Torrington contends that NTN did not include either retirement benefits for directors and statutory auditors or a certain proprietary expense in its general and administrative (G&A) expenses. Torrington argues that the Department should include amounts for these expenses using, where necessary, non-punitive facts available.

With respect to retirement benefits, NTN argues that it explained that these expenses have no effect on its responses because the expenses in question were extraordinary. With regard to the certain proprietary expense, NTN contends that the Department's questionnaire instructed NTN to report costs for subject merchandise only. Therefore, NTN asserts that its cost response complies fully with the Department's instructions.

Department's Position: NTN did not include an amount for retirement benefits for directors and statutory auditors in its reported costs on the grounds that it does "not have any effect on the questionnaire response because it was an extraordinary expense." See NTN's supplemental response dated October 19, 1998, at A–7. However, it is incumbent upon the respondent to demonstrate that it is entitled to a favorable expense adjustment. NTN did not explain how retirement benefits are an "extraordinary expense" and provided no other justification for exclusion of these expenses. Therefore, we have recalculated NTN's G&A expenses to include these benefits.

With regard to the certain proprietary expense, we determine that, based on the evidence on the record of this review, it is appropriate to exclude this expense from G&A. Because of the proprietary nature of this expense, please see NTN final results analysis memorandum dated June 16, 1999, for an explanation of our determination.

Comment 3: SKF Sweden disagrees with the Department's characterization of it as a non-cooperative respondent. SKF Sweden contends that the Department's assignment of the highest SKF Sweden-specific CRB margin, 13.69 percent, as total adverse facts available for its CRB sales is unlawful. SKF Sweden asserts that it informed the Department in a timely manner that its production of CRBs sold to the United States during the POR had ceased in 1993. SKF Sweden submits that, in light of this fact, it cooperated fully with the Department by providing aggregated U.S. quantity and value sales data, informing the Department that there were no home-market sales of CRBs made during the review period, and that no detailed cost data existed with respect to this merchandise. Accordingly, SKF Sweden argues, it did not have sufficient information to provide detailed cost or CV data in response to the Department's questionnaire.

SKF Sweden contends that the Department should not resort to facts available because it was unable to comply with the Department's requests for information, citing *Borden.* SKF Sweden argues that, because it no longer produced CRBs, its inability to provide the requested CRB data should not lead to the mischaracterization of SKF Sweden as a non-cooperative respondent and therefore to the use of adverse facts available. To do otherwise, SKF Sweden asserts, would be opposite to the position the Department took recently in *Final Results Administrative Review; Certain Pasta from Italy,* 64 FR 6615 (February 10, 1999) (*Pasta Italy Review*), in which the Department determined that adverse facts available should not be applied to a company which informs the Department in a timely manner of its inability to comply with information requests due to the liquidation of assets. Finally, SKF Sweden argues that the Department determined erroneously that SKF Sweden absorbed 100 percent of the dumping duties on its CRB transactions.

Torrington contends that it was appropriate for the Department to determine SKF Sweden as a non-cooperative respondent and assign an adverse facts-available rate to its CRB sales. Torrington posits that inconsistencies in the record demonstrate that SKF Sweden has not cooperated fully with the Department. Torrington points to several discrepancies on the record where SKF Sweden states that it sold CRBs during the review period and where it states it did not sell CRBs. Torrington also identifies language in SKF Sweden's case brief that indicates SKF Sweden's acknowledgment that it could have provided some information about the CRB sales. Torrington argues that reporting all sales of CRBs would not have been burdensome given that SKF Sweden had already provided aggregate quantity and value data.

Torrington also contends that it is unlikely that SKF Sweden would not retain cost and CV data of its CRBs for at least a five-year period following ceased production of such merchandise, given the existence of the antidumping duty order. Torrington also asserts that SKF Sweden did not address the issue of why it did not retain such data and that SKF Sweden should not benefit from having destroyed the cost data for CRBs. Torrington points out that the Department requested the CRB data in both the original and second supplemental questionnaires and never informed SKF Sweden that it was not required to report such data. Torrington also argues that SKF Sweden has not established the basis on which the Department would not assess duties on its CRBs, citing *The Torrington Company* v. *United States,* 82 F.3d 1039, 1047 (CAFC 1996) (*Torrington I*). Accordingly, Torrington argues that SKF Sweden did not act or cooperate to the best of its ability to provide the requested information.

Torrington asserts that, while the Department should, at the least, assign the highest SKF Sweden-specific CRB margin to SKF Sweden's unreported CRBs, a higher more punitive facts-available rate should be assigned to the unreported sales. Torrington suggests that, owing to the fact that SKF Sweden continued to withhold requested data, the LTFV margins of 76.2 percent assigned to SKF Germany or 212.45 percent assigned to SKF Italy would be more appropriate to use as the total facts-available rate for SKF Sweden's CRB sales. Finally, Torrington contends that the Department should continue to determine that SKF Sweden absorbed duties on all of its CRB transactions.

SKF Sweden rebuts Torrington's claim that the record demonstrates inconsistencies in SKF Sweden's responses and argues that Torrington is misconstruing the facts on the record. SKF Sweden contends that it never stated that there were no sales of CRBs in the United States during the review period. Rather, SKF Sweden submits that it stated that there were no home-market sales of CRBs during the review period. SKF Sweden asserts that there is no justification to use the SKF Germany or SKF Italy facts-available rates Torrington suggests, arguing that the investigation must pertain to the same class or kind of merchandise in the same country of origin, citing *Peer Bearing Company* v. *United States,* 12 F. Supp. 2d 445, 451 n.4 (CIT 1998) (*Peer Bearing*). SKF Sweden contends that, given that the SKF Germany and SKF Italy rates Torrington suggests relate to different orders from different countries, the underlying price and cost data of merchandise involved in those orders is in no way indicative of the prices or costs of CRBs from Sweden.

Department's Position: SKF Sweden sold CRBs in the United States during the POR but did not provide CRB sales or cost data, thereby precluding us from conducting an analysis of its CRB sales. Section 776(a) of the Act requires us to make a determination on the basis of the facts available where requested information is missing from the record and, thus, cannot be used because it was not provided. Therefore, in accordance with the Act, we must rely upon facts available for these final results of review.

In order to determine whether we should make an adverse inference in the application of facts available, we considered whether SKF Sweden cooperated to the best of its ability in the instant administrative review with respect to its CRB sales. We requested CRB sales and cost data in both our original and supplemental questionnaires. However, despite our requests for CRB information, SKF Sweden did not provide such information, indicating that, because (a) SKF Sweden ceased production of CRBs in 1993, (b) the imports of the CRBs in question were *de minimis* during the review period, and (c) the cost involved to prepare the data would outweigh the benefits of submitting the requested data for the administrative review, it would not respond to our requests for CRB information. See SKF Sweden's original questionnaire response, dated August 28, 1998, at 1.

Section 776(b) of the Act permits us to draw an adverse inference where a party has not cooperated in a proceeding. This section of the Act deems a respondent uncooperative where it has not acted to the best of its ability to comply with requests for necessary information. See the SAA at 870. Because SKF Sweden chose not to provide the requested CRB information, we find that SKF Sweden was not cooperative. Specifically, we are not convinced that SKF Sweden could not provide the requested cost data.

Accordingly, we find that SKF Sweden did not act to the best of its ability to comply with our requests for this information. Therefore we have made an adverse inference and assigned a total facts-available rate to SKF Sweden's sales of CRBs.

In its original and supplemental questionnaire responses, SKF Sweden submitted only total quantity and value data with respect to its CRB sales. At no time did SKF Sweden indicate that it did not have the sales data underlying its CRB sales transactions. It appears that SKF Sweden could have provided all of the data maintained in its records as it pertains to the sales of CRBs, albeit only the U.S. sales data. We also note that the quantity of CRBs sold during the review period is irrelevant.

SKF Sweden also claimed in its original questionnaire response that because it did not make any sales of CRBs in the comparison market it would have to provide cost information for purposes of CV, but it no longer had such cost information because it ceased production of CRBs in 1993. As discussed below, we find that ceasing production of subject merchandise does not relieve SKF Sweden of its responsibility to provide requested information. On May 15, 1989, we published in the **Federal Register** the orders on AFBs from Sweden for both BBs and CRBs. Thus, while SKF Sweden ceased production of CRBs in 1993, it was aware of the order on the subject merchandise and had already participated in several administrative reviews. SKF Sweden pointed out in its response that it retained in its inventory the CRBs that it sold in this review period. Given that SKF Sweden retained this merchandise in inventory, it anticipated that it might sell such merchandise in the future. Based on SKF Sweden's experience as a participant in these administrative reviews, it was well informed that, upon selling those CRBs during a period in which we are conducting an administrative review and in which it was a participant, we would, in accordance with our statute and regulations, request sales and possibly cost data and other information with regard to that merchandise. Accordingly, SKF Sweden cannot benefit from its failure to maintain relevant records merely because it ceased production of the subject merchandise.

In addition, SKF Sweden's reliance upon *Pasta Italy Review* is misplaced. In *Pasta Italy Review,* the respondent was precluded from using financial and personnel resources in responding to our questionnaires due to legal proceedings underlying the liquidation of its assets. In *Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Administrative Review,* 59 FR 15159, 15173 (March 31, 1994) (*Flowers from Colombia*), a case cited in *Pasta Italy Review* which elaborated on the issue of how liquidation affects a respondent's ability to provide information to the Department, the companies that went out of business were required by law to sell or dispose of their assets. Herein lies the difference between the situation that SKF Sweden faces after ceasing production of its CRBs and the situation that the respondents faced in *Pasta Italy Review* and *Flowers from Colombia.* Unlike those respondents, SKF Sweden was not required to relinquish its assets and dispose of its records with regard to its CRBs. SKF Sweden merely chose not to maintain such records, despite its knowledge of and experience in the AFB proceedings. In fact, SKF Sweden decided to retain some of its assets, the physical merchandise in question, in its inventory. In contrast, the respondents which liquidated their assets were legally required to sell or dispose of all of their assets. Therefore, SKF Sweden's decision not to maintain its CRB cost records does not excuse SKF from responding to our requests for cost and sales information with respect to CRBs. See *Koyo Seiko Co.* v. *United States,* 796 F. Supp. 517, 525–26 (CIT 1992), and *Pulton Chain Co., Inc,* v. *United States,* 17 CIT 1136 (October 18, 1993).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less Than Fair Value,* 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See *Roller Chain Other Than Bicycle, From Japan; Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review,* 62 FR 69472, 60477 (November 10, 1997).

We disagree with Torrington's suggestion that we use the LTFV margins assigned to SKF Germany and SKF Italy because the rate used as facts available normally should pertain to the same class or kind of merchandise from the same country of origin. See *Peer Bearing.* In order to ensure that the rate is sufficiently adverse so as to induce SKF Sweden's cooperation, we have assigned to SKF Sweden's CRB sales as adverse total facts available a rate of 13.69 percent, which we determined in the LTFV investigation and which is the highest margin ever calculated for CRBs from Sweden. Finally, because we have determined that a dumping margin does exist on the sales in question based on adverse facts available and lacking other information, we find duty absorption on all U.S. sales of CRBs made by SKF Sweden.

Comment 4: Torrington argues that NSK provided inadequate responses to the Department's supplemental questionnaire regarding NSK's downstream sales for certain affiliates. Torrington asserts that NSK's claim that it need not report downstream sales of certain affiliates because it did not have to do so in the LTFV investigation is irrelevant to this review. Torrington also contends that, in spite of the Department's request, NSK did not provide documentation demonstrating that sales to certain affiliates were made at arm's length. Torrington argues that the Department should apply facts available to all U.S. sales matched to models sold to affiliates in the home market for which NSK did not provide resale data.

NSK argues that the Department should not apply facts available regarding its home-market downstream-sales information because it responded fully to the Department's requests. NSK argues that it is for the Department, not Torrington, to decide whether NSK's explanations were adequate. NSK notes that the downstream-sales information with which Torrington takes issue represents a *de minimis* amount of NSK's home-market sales of scope merchandise. NSK argues further that Torrington's argument regarding arm's-length sales is irrelevant because the Department's arm's-length test removes from the home-market database all sales that fail the test.

Department's Position: We normally do not calculate normal value based on the sales by an affiliated party if sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the total value (or quantity) of the foreign like product in the market in question (see 19 CFR 351.403(d)(1998)). Based on information NSK submitted for the record, the sales in question comprise less than five percent of the total quantity of home-market sales. See NSK's section A response dated August 28, 1998, at A–26. Therefore, we consider NSK's response to be adequate with respect to this matter and have not used facts available.

Comment 5: Torrington argues that NSK did not respond to the Department's request that NSK report price adjustments made after NSK submitted its home-market sales listing. Torrington argues that, as facts available, the Department should assume that all home-market sales had unreported upward adjustments in the amount of the highest upward adjustment on any reported home-market sale.

NSK responds that it explained in its response, and the Department verified, the issue of NSK's updated billing-adjustments. NSK contends that the Department's decision not to resort to facts available in the preliminary results was appropriate and should be the same in the final results.

Department's Position: NSK claimed in its response and at verification that it was impractical to report post-submission billing adjustments and that such an exercise would require NSK to recreate its entire database. Based on records we examined at verification, we found evidence that NSK's exclusion of this price-adjustment has no material impact on our margin calculation and, thus, does not warrant the use of facts available. The details of our findings are not susceptible to public summary. See Verification Report of NSK's Sales Response at 8 and Exhibit VI. Accordingly, we have not applied facts available for NSK's unreported billing adjustments.

Comment 6: Torrington argues that NSK did not cooperate with the Department's request that NSK demonstrate the estimated period during which subject merchandise remains in home-market distribution centers. According to Torrington, this precludes the proper calculation of NSK's inventory carrying cost calculation for U.S. sales. Torrington argues that, as facts available, the Department should apply the highest inventory carrying cost rate (expenses to sales value) in the home market for any other Japanese respondent.

NSK responds that Torrington's argument is irrelevant to the margin calculation because the Department does not deduct inventory carrying costs in the home market from CEP or EP. NSK argues that, nonetheless, it responded fully to the Department's supplemental questionnaire.

Department's Position: NSK cooperated with our request for information regarding this issue adequately. In response to our request that NSK explain how it calculated the estimated period during which merchandise destined for the United States remains in distribution centers, NSK stated that it based the reported time period on its normal shipping schedules and average experience for shipping merchandise. See NSK's Supplemental Response at 27. NSK explained that it did not provide worksheets pursuant to our request because there were none to provide. Thus, we determined that NSK cooperated with our request as best it was able. Accordingly, we did not apply facts available for NSK's inventory carrying costs. However, contrary to NSK's assertion, inventory carrying costs are germane to our margin calculation because these costs comprise part of the expenses used to calculate a commission offset.

Comment 7: Torrington argues that NSK did not respond to the Department's request that NSK justify its reporting of depreciation costs for equipment obtained from affiliated suppliers. Torrington argues that NSK's statement that any adjustment to the purchase price of machinery from affiliates would result in a *de minimis* change to COP is inadequate and unresponsive. Torrington argues, therefore, the Department should restate depreciation based on facts available.

NSK responds that the Department should not restate NSK's depreciation costs based on facts available because NSK responded fully to the Department's question regarding equipment from affiliated suppliers. NSK notes that, according to its standard accounting practices and Japanese Generally Accepted Accounting Practices (GAAP), equipment purchases from affiliated companies were treated no differently than those purchases from unaffiliated companies. NSK argues further that, since any adjustment to the purchase price of equipment from affiliates would result in a *de minimis* adjustment to COP, it would gain nothing by attempting to alter the treatment of these depreciation costs.

Department's Position: NSK's supplemental response dated October 29, 1998, at 36, demonstrates that the amount of depreciation costs on equipment from affiliates is small enough that any adjustment to NSK's purchase price of equipment from affiliates would have an insignificant impact on NSK's reported COP. Also, NSK's methodology was in accordance with GAAP of the country of exportation, which we generally accept unless the methodology is determined to be distortive. That is not the case in this situation. Furthermore, NSK responded adequately to our requests for information. Therefore, we have not used facts available.

Comment 8: Torrington argues that the Department should use facts available for certain major inputs obtained from affiliated parties for which SKF France did not provide market prices. For valuing major inputs, Torrington notes that the Department's questionnaire instructs respondents to report the highest of the following values: (a) The transfer price from the affiliate, (b) the affiliate's COP, or (c) the market price. Torrington asserts that SKF France only reported the higher of the transfer price or the affiliate's COP. Therefore, Torrington argues, since SKF France has not responded fully to the questionnaire, the Department should use facts available for the inputs at issue.

SKF France states that, in response to the Department's supplemental questionnaire, it reported the overlap of components that it purchased from both affiliated and unaffiliated parties. SKF France notes that it explained in its response that the number of overlaps is insignificant compared to the thousands of parts used. SKF France argues that this substantiates its contention that market prices are generally not available for such components and notes that during verification the Department examined the issue of SKF France's valuation of materials purchased from affiliated parties and found no discrepancies. Therefore, SKF France contends, the Department is correct in accepting its reporting of values for these inputs.

Department's Position: SKF France did not respond fully to our questionnaire and the use of partial facts available is appropriate. SKF France admits in its questionnaire response and case brief that it valued major inputs purchased from affiliated suppliers based on the higher of transfer price or COP and that it did not take into consideration the market prices for some components which it purchased from both affiliated and unaffiliated suppliers. Therefore, SKF's reporting is not in accordance with section 351.407 of the Department's regulations which states that, for purposes of section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of: (1) The price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. In an effort to obtain market values for major inputs in usable form, we sent SKF France a supplemental questionnaire requesting that it provide a chart listing, for each major input, the per-unit transfer price charged by the affiliated party and the per-unit COP incurred by the affiliated party. In addition, we asked that SKF France include in its chart the sales prices charged by unaffiliated parties (where possible) and that SKF France provide documentation to support these prices. See supplemental questionnaire dated October 26, 1998, at 9. In response to our question, SKF provided a chart with the requested information for COP and transfer prices. However, the market-price information it provided for components purchased by unaffiliated parties was not comparable to the manner in which it reported the COP and transfer price information. Therefore, we could not determine whether the market prices were higher than the reported COP or transfer prices. Since SKF France did not provide the market-price data in the form which we requested, it could not be used. In addition, contrary to SKF France's contention, the market value of materials was not examined during verification.

Section 776(a) of the Act provides for the use of facts available where a company fails to provide requested information in the form and manner requested. See also the SAA at 869 (providing that the Department may use facts available to fill gaps in the record due to deficient submissions). As a result of SKF France's failure to provide requested information, we have used partial facts available to ensure that these market prices are taken into consideration. We applied partial facts available by making an adjustment to SKF France's reported total cost of manufacturing on a transaction-specific basis. Because of the proprietary nature of the information, we cannot discuss the details of the facts available we are applying in this public notice. See SKF France's final results analysis memorandum dated June 16, 1999.

2. Duty Absorption

Section 751(a)(4) of the Act provides that, if requested, the Department will determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) of the Act authorizes this type of inquiry during an administrative review initiated two years or four years after publication of an order.

For transition orders as defined in section 751(c)(6)(C) of the Act (*i.e.*, orders in effect as of January 1, 1995), section 351.213(j)(2) of the Department's regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. On May 29, 1998, and July 29, 1998, Torrington requested the Department to determine, with respect to all respondents except Torrington Nadellager and SNFA UK, whether antidumping duties had been absorbed during the POR. On May 29, 1998, FAG Bearings Corp. requested that the Department determine for Torrington Nadellager whether antidumping duties had been absorbed during the POR. Since these reviews were initiated in 1998 and we received timely requests, we have made a duty-absorption determination as part of these administrative reviews.

In our preliminary results of review, we calculated the percentage of sales by a U.S. affiliate with dumping margins for each exporter. We stated that, with respect to those companies (with affiliated importer(s)) that had dumping margins, we would rebuttably presume that the duties will be absorbed for those sales which were dumped. We received several comments responding to these preliminary findings.

Comment 1: Certain respondents argue that the statute only permits the Department to conduct a duty-absorption inquiry initiated two or four years after the publication of an antidumping duty order. These respondents claim that, although the Department defended its decision to conduct a duty-absorption inquiry in these reviews on the grounds that these cases involve transition orders, there is nothing in section 751(c) of the Act that suggests that the definition of ''transition order'' for purposes of sunset reviews applies to the definition of ''antidumping duty order'' in section 751(a)(4) of the Act for purposes of duty-absorption inquiries. Therefore, these respondents argue, the Department is incorrect in justifying the duty-absorption inquiry by calling AFBs orders ''transition orders'' in accordance with section 751(c)(6)(C) of the Act as this section only applies to ''sunset'' reviews. These respondents conclude that the lack of explicit Congressional approval for duty-absorption inquiries for transition orders shows that Congress did not intend for duty-absorption inquiries to be initiated more than four years after publication of an antidumping duty order. Finally, these respondents assert that the Department cannot rely on its own regulation to create an exception for transition orders when such an exception is not authorized by the statute.

Torrington argues that, in *AFBs 7*, the Department rejected respondents' claim that the statute only permits duty-absorption determinations in the second and fourth reviews following the initial publication of the order. Citing the SAA at 885–886, Torrington contends that the respondents' position, if accepted, would ''gut'' the statute since the existence of duty absorption is a critical factor in the context of both the Department's determination in sunset reviews of whether dumping is likely to continue or recur and the International Trade Commission's determination in sunset reviews of whether injury is likely to continue or recur. Torrington argues that accepting the respondents' restrictive reading of the statute would mean that duty absorption, while remaining as an analytical tool in sunset reviews of new orders, would no longer be available in sunset reviews of any transition orders. Torrington argues further that even new orders would be affected, as the respondents' narrow reading of the statute would allow an absorption inquiry only in the second and fourth year after the issuance of an order. Finally, citing *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR at 27317 (May 19, 1997) (*Final Rule*) (discussing 19 CFR 351.213(j)(1)), Torrington argues that, in the context of drafting its revised regulations in order to implement the new law, the Department considered the statute and the comments of interested parties carefully and determined that the duty-absorption inquiry is equally applicable to transition orders.

Department's Position: With regard to the time frame in which we are conducting these reviews, section 351.213(j)(1) of our regulations, in accordance with section 751(a)(4) of the Act, provides for the conduct, upon request, of absorption inquiries in reviews initiated two and four years after the publication of an antidumping duty order. With respect to transition orders, the preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year (61 FR at 7317). Because these orders on AFBs have been in effect since 1989, these are transition orders in accordance with section 751(c)(6)(C) of the Act. This being a review initiated in 1998 and a request having been made, we have made duty-absorption determinations as part of these administrative reviews.

We believe that Congress intended that the International Trade Commission would consider the issue of duty absorption in all sunset reviews. In this regard, the statutory provision requiring the consideration of duty absorption does not distinguish between antidumping orders issued after January 1, 1995, and transition orders. See section 752(a)(1)(D) of the Act. Moreover, in all of the legislative history, Congress explained the implications of affirmative duty-absorption findings and clearly contemplated that such findings would be considered in all sunset reviews. See S. Rep. 103–412 at 50 (1994). See also H. Rep. 103–826 at 60–61 (1994) (''Commerce will inform the Commission of its findings regarding duty absorption, and the Commission will take such findings into account in determining whether injury is likely to continue or recur if an order were revoked''). Thus, we have made duty-absorption determinations as part of these administrative reviews.

Comment 2: Certain respondents state that gauging absorption on information that they do not know until completion of an administrative review is unfair. More specifically, they claim that the nature of the review process prevents them from determining the U.S. price increase necessary to pass dumping duties on to customers because the ultimate liability is not known until the end of a review. The respondents claim further that, other than dumping deposits paid at the time of entry, they have no means of estimating the price increases necessary to pass dumping duties to the customers.

The respondents also argue that the Department cannot presume that duty absorption on sales to the U.S. affiliate exists if the record does not contain evidence of the U.S. purchaser's assumption of liability for ultimate assessment. They claim that the Department's rebuttable presumption ignores commercial reality in that no U.S. buyer would agree to assume liability for an unascertainable amount of duties. The respondents claim that the Department has not provided any reason for adopting the presumption of duty absorption and that the presumption is not allowable by law.

SKF states that the Department's 15-day deadline for submitting evidence to rebut the assumption that unaffiliated U.S. purchasers will pay the assessed dumping duty is too short, given the amount of evidence that would have to be collected and the number of customers that would have to be contacted.

FAG argues that, notwithstanding the fact that the Department does not have the authority to conduct an absorption review in this review, the methodology chosen by the Department is arbitrary and capricious. FAG argues that the Department has simply calculated the percentage of FAG's U.S. affiliate's sales with dumping margins versus total sales and concluded that this figure demonstrates duty absorption within the meaning of the statute. FAG contends that, absent some explanation of the relevance of this information, there is no connection between the percentage of sales of a U.S. importer with dumping margins and any alleged duty absorption by the affiliated foreign producer or exporter. Therefore, FAG argues, the Department should demonstrate how its methodology has performed the analysis required by the statute (*i.e.*, determining whether the foreign producer or exporter has absorbed antidumping duties). Finally, FAG contends that, if the Department cannot explain how its methodology has fulfilled the task specified by the statute, then the results of the absorption inquiry should be disregarded.

Torrington contends that the Department's decision was fair. According to Torrington, it was correct to reject SKF's arguments that the Department's methodology does not give respondents enough time and that the use of a presumption renders the duty-absorption provision superfluous. Torrington states further that in *AFBs 7* the Department rejected SKF's argument that the record shows SKF did not absorb duties correctly. Torrington also states that the Department rejected FAG's argument that there is no connection between the percentage of sales dumped and the presence of duty absorption in *AFBs 7*.

Department's Position: An investigation as to whether there is duty absorption does not simply involve publishing the margin in the final results of review. As we noted in the preliminary results of these reviews, the determination that duty absorption exists is also based on the lack of any information on the record that the first unaffiliated customer will be responsible for paying the duty that is ultimately assessed. Absent an irrevocable agreement between the affiliated U.S. importer(s) and the first unaffiliated customer, there is no basis for us to conclude that the duty attributable to the margin is not being absorbed.

Section 751(a)(4) of the Act does not specify the methodology we are to use in an administrative review in determining whether duty absorption occurred. Similarly, the SAA at 885 simply notes that the Department ''will examine * * * whether absorption has taken place.'' Moreover, the legislative history provides no guidance on what methodology the Department is to employ in making its determination. See also S. Rep. No. 103–412 at 44 (1994).

In considering methodologies that might be used for a duty-absorption inquiry, the Department sought to adopt one that would comply with the statute, as well as one that would be administrable within the time frame of a review period and still provide respondents with a sufficient opportunity to cure any deficiencies. The method the Department adopted accomplishes these goals. As the Department explained in *AFBs 7*, 62 FR at 54076, the ''existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty.'' This is a reasonable presumption because the continued existence of dumping duties indicates that the producer and its affiliated U.S. importer have not adjusted their prices to eliminate dumping. If the producer has not set its price to the first unaffiliated U.S. customer high enough to eliminate dumping, it is reasonable to presume that the producer is also absorbing the dumping duties. The reasonableness of this presumption is also reflected in the SAA at 885, which states that ''the affiliated importer may choose to pay the antidumping duty *rather than eliminate the dumping*'' (emphasis added). In sum, the existence of dumping gives rise to a reasonable presumption that the affiliated importer is absorbing dumping duties.

This is an instance where the existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty. As such, the burden of producing evidence to the contrary shifts to the respondent. See *Creswell Trading Co., Inc.* v. *United States*, 15 F.3d 1054 (CAFC 1994). Here the respondents have not placed evidence on the record, despite being given ample time to do so, in support of their position that they and their affiliated importer(s) are not absorbing the duties. Regarding FAG's argument that there is no connection between the percentage of sales of a U.S. importer with dumping margins and any alleged duty absorption by the affiliated foreign producer or exporter, the percentage of sales with dumping margins is an indication of the volume of imports for which antidumping duties are being absorbed.

Comment 3: SKF argues that, by using data already available on the record, the Department is able to conduct an accurate analysis of whether dumping duties are being absorbed by comparing the total profit of CEP sales to the total amount of the antidumping liability. SKF, Koyo, and NSK also emphasize that, while dumping must be measured on a transaction-specific basis, there are no reasons why a duty-absorption inquiry can not be done on an aggregate basis. SKF argues that the Department must consider aggregate sales if an accurate duty-absorption determination is to be made. SKF states that, when the Department calculates dumping margins for transactions where the U.S. price exceeds normal value, the margin is set to zero. SKF contends that these ''negative'' margins need to be taken into account since ''negative'' margins indicate that, overall, duties are not being absorbed but, rather, that a company is offsetting dumping prices completely by passing on the cost of duties to its customers through universally higher prices. SKF also argues that, at a minimum, the Department's duty-absorption methodology must be modified to exclude from the percentage of dumped sales those transactions with *de minimis* margins. SKF contends that, if this is not done, a nonsensical result could be achieved where a respondent is found not to be dumping yet is found to be absorbing antidumping duties. SKF states that to disregard *de minimis* margins for purposes of the duty-absorption analysis is consistent with the Department's treatment of such margins for other purposes. NSK contends that, by adopting an aggregate approach, the Department would be creating a much more equitable standard consistent with World Trade Organization obligations for measuring duty absorption.

Torrington argues that the Department should reject SKF's proposals, as it did in *AFBs 7,* that sales with negative margins should be used for purposes of the duty-absorption determination and that no inquiry should proceed where total CEP profit exceeds the dumping duties due. Torrington argues further that the fact that there are sales by an importer at fair value is of no consequence for duty-absorption inquiries just as they are of no consequence for dumping-margin calculations. Torrington states that, as there is no basis in the antidumping law to use negative margins as an offset or credit against positive margins, the same consideration applies in the context of duty absorption.

Department's Position: The Department treats so-called ''negative'' margins as being equal to zero in calculating a weighted-average margin because otherwise exporters would be able to mask their dumped sales with non-dumped sales. See *Tapered Roller bearings and Parts Thereof, Finished and Unfinished from Japan; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 2559, 2576 (January 15, 1998), and *AFBs 7,* 62 FR at 54076. It would be inconsistent on one hand to calculate margins using only positive-margin sales, which is the Department's practice, and then effectively argue for duty absorption purposes that there are no margins for duty-absorption purposes because a deduction from the total duties determined should be made for non-margin sales. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Antidumping Duty Administrative Review,* 62 FR 18744, 18745 (April 17, 1997). In addition, accounting for negative margins would allow respondents to absorb duties selectively (on a customer, regional, or some other basis). With respect to *de minimis* margins, we apply *de minimis* margins on an aggregate, not on a sale-by-sale, basis. We disregard aggregate *de minimis* weighted-average margins for cash-deposit purposes, but we do not disregard individual sales that may have been dumped at less than 0.5 percent from a company's weighted-average margin.

Finally, a company's profit on CEP sales is not relevant to a duty-absorption inquiry. The existence of profit on such sales does not negate the fact that the dumping duties assessed on the entries are absorbed by the affiliate.

3. Discounts, Rebates and Price Adjustments

Comment 1: Torrington argues that the Department should not deduct FAG's reported home-market rebates because FAG used a broad allocation to report its rebates. Torrington contends that the CAFC, in *Torrington I,* ruled that direct expenses must be reported on a transaction-specific basis. Torrington argues that FAG's reported rebates are distortive because they assign a rebate amount to all sales of a particular customer rather than only to the individual sales on which the rebate was incurred. Torrington also asserts that FAG has not shown that it reported these rebates to the best of its ability.

FAG argues that, where a rebate program only applied to a customer's purchase of specific products, the rebate FAG paid was factored only over those product purchases rather than all of the customer's purchases. Thus, FAG contends, the rebate is only reported for those sales on which it incurred the expense. FAG also observes that the Department has examined this issue in prior reviews and rejected Torrington's argument.

Department's Position: Under section 351.401(g) of the Department's regulations, we accept allocated price adjustments, such as rebates, when transaction-specific reporting is not feasible and the allocation method used does not cause unreasonable inaccuracies or distortions. In judging the feasibility of transaction-specific reporting, we take into account the records maintained by a respondent, as well as such factors as the accounting practices in the country and industry in question and the number of sales made during the POR. See also *AFBs 7,* 62 FR at 54049.

FAG's home-market rebates were reported in the same manner as in prior reviews (see *AFBs 7,* 62 FR at 54051) and are limited to the sales on which FAG actually incurred the rebate expense. FAG stated in its supplemental response that rebates that were payable in connection with purchases of certain types of products or for purchases made during certain select periods were reported on the basis on which they were granted. See FAG's supplemental response dated October 27, 1998, at 6. In addition, Exhibit B–6 of FAG's section B response dated August 28, 1998, shows that FAG allocated the rebate only over those sales which received a rebate and it applied the allocation only to the sales for which it paid a rebate. Based on these facts, we determine that FAG's methodology for reporting its home-market rebates is reasonable and not distortive because it assigns rebates only to those sales which incurred rebates on a customer-specific basis.

With regard to Torrington's reliance on *Torrington I,* as we have stated in prior determinations and in the preamble to our regulations, *Torrington I* does not address the propriety of allocation methods but rather holds that we may not treat direct price adjustments as if they were indirect selling expenses. See *Final Rule,* 62 FR at 27347, and *AFBs 7,* 62 FR at 54050.

Comment 2: Torrington asserts that the Department should reject SKF Germany's claim for home-market billing adjustment two, which applies to multiple transactions involving the same customer. Torrington contends that SKF Germany summed all adjustments applicable to the customer number involved and allocated this amount over all sales to that customer. Torrington asserts that this allocation is contrary to the court's decision in *Torrington I* regarding the reporting of direct selling expenses. Torrington alleges that, by accepting SKF

Germany's allocation, the Department in effect treated these as indirect expenses. Torrington argues that SKF Germany's reporting method is distortive because it does not tie the reported adjustment to specific transactions (or specific groups of transactions) to which they actually applied, but instead it allocates adjustments across product lines. Torrington argues that SKF Germany's reporting method is therefore contrary to the Department's post-URAA practice regarding such adjustments and that, as facts available, only positive billing adjustments should be retained for purposes of calculating the net home-market price. Furthermore, Torrington contends that, to the extent the facts seem to indicate that customers are simply awarded certain lump sums, the adjustment claimed by SKF Germany is not a billing adjustment but a rebate. Torrington argues that the Department does not accept rebates unless they were contemplated at the time of sale or are understood from past dealings of the parties.

SKF Germany responds that its reporting of billing adjustment two is not distortive, is consistent with the way that it incurs this expense, and constitutes a reasonable allocation under U.S. law. SKF Germany asserts further that the Department has accepted this adjustment in the last three reviews, as well as verified it in the last administrative review where it found that transaction-by-transaction reporting is simply not possible because the adjustments related to multiple transactions and, therefore, could not have been reported more specifically. SKF Germany contends that *Torrington I* was decided under the pre-URAA law and that the 1994 amendments emphasized that reasonable allocations of direct expenses are acceptable. SKF Germany contends further that, in *Torrington I,* the CAFC merely held that the Department could not treat direct adjustments as indirect selling expenses and that, therefore, acceptance of an allocation is not incompatible with its holding. SKF Germany insists that there is no factual or legal basis for distinguishing between upward and downward billing adjustments with respect to the amounts reported in its home market billing-adjustments-two field since it has reported this adjustment in a manner consistent with its business records. Moreover, SKF Germany asserts, the Department examined these adjustments in prior reviews and found them to be allocated reasonably.

Department's Position: We accept post-sale billing adjustments as direct adjustments to price if we determine that a respondent, in reporting these adjustments, acted to the best of its ability to associate the adjustment with the sale on which the adjustment was made, rendering its reporting methodology not unreasonably distortive. See *AFBs 6,* 62 FR at 2090. While we prefer that respondents report these adjustments on a transaction-specific basis (or, where a single adjustment was granted for a group of sales, as a fixed and constant percentage of the value of those sales), we recognize that this is not always feasible, particularly given the extremely large volume of transactions involved in these reviews and the time constraints imposed by the statutory deadlines.

SKF Germany's two billing adjustments were part of credit or debit notes issued to the customer that related to multiple invoices, products, or invoice lines, and which, therefore, could not be tied to a single specific transaction. In these cases, the most feasible reporting methodology that SKF Germany could use was a customer-specific allocation, which is not unreasonably inaccurate or distortive.

It is inappropriate to reject allocations that are not unreasonably distortive where a fully cooperating respondent is unable to report the information in a more specific manner. Because these adjustments are associated with multiple invoices, products, or product lines, they could not be tied to a specific transaction. Verification in the 96/97 review was an opportunity to determine whether billing adjustment two represented a reasonable approximation of SKF Germany's experience in granting this adjustment. Our conclusion in that review was that there was no reason to believe that the actual data would differ significantly. In this review, there is no evidence on the record to indicate that the bearings included in SKF Germany's current allocations vary significantly, either in terms of value, physical characteristics, or the manner in which they were sold. For this reason, we find that this methodology is not unreasonably distortive. With regard to the holding in *Torrington I,* see our response to the previous comment.

Comment 3: Torrington argues that the Department should reject all of Koyo's downward billing adjustments to home-market prices reported as billing adjustment two because the reporting methodology was incorrect and distortive. Torrington contends that billing adjustment two is distortive because it includes adjustments which Koyo granted on a model-specific basis but allocated over all sales to the customer involved, as well as lump-sum adjustments granted on a customer-specific basis, with the result that adjustments are made to transactions for which no adjustment actually applied. Citing *Torrington I,* the petitioner argues further that expenses which vary from sale to sale are direct expenses and must be reported as such (*i.e.,* varying from sale to sale) or be denied. Torrington contends that, by accepting Koyo's allocation, the Department in effect is treating Koyo's reported billing adjustments as an indirect expense (*i.e.,* not varying from sale to sale) and, thus, reaching a result that is incompatible with *Torrington I.*

In rebuttal, Koyo argues that Torrington has offered no new reason why the Department should not reject Torrington's arguments in these reviews as it has done in the past three AFB reviews. Koyo contends that the petitioner continues to rely on *Torrington I* even though the Department dismissed *Torrington I* as inapplicable to the issue at hand, citing *AFBs 6,* 62 FR at 2091.

Department's Position: Koyo has reported billing adjustment two to the best of its ability. We have based this determination on the fact that this post-sale price adjustment is comprised of two types of adjustments: (1) Lump-sum adjustments negotiated with customers without reference to model-specific prices, and (2) adjustments granted on a model-specific basis but which Koyo records in its computer system on a customer-specific basis only. Given the large number of sales involved, it is not feasible to report this on a more specific basis. See *AFBs 7,* 62 FR at 54050–51, and *AFBs 8,* 63 FR at 33328. Furthermore, we examined this expense closely at verification and found no indication that Koyo's methodology would result in distortive allocations. Therefore, we have allowed Koyo's billing adjustment two as a direct adjustment to normal value.

4. Circumstance-of-Sale Adjustments

4.A. Credit

Comment 1: Torrington notes that a home-market verification exhibit discloses that FAG Italy was uncertain of the dates of payments for some home-market sales. Torrington requests that the Department accept revised, post-verification data from FAG Italy only to the extent that it is satisfied that the payment dates have been reported accurately. Torrington requests that the Department otherwise apply partial facts available to the imputed credit calculation.

FAG Italy responds that, after verification, it revised its home-market credit expense calculation properly; it notes that it based the dates of payments for transactions of April and May 1998 on the customer-specific averages of the prior six months and that it recalculated imputed credit using these new dates. It asserts that, because the payment dates have now been reported accurately, the Department should accept its revised data.

Department Position: We have no reason to believe that FAG Italy reported payment dates for home-market sales inappropriately. Per our request, on December 18, 1998, FAG Italy submitted its post-verification amendments to account for corrections it presented at the beginning of verification and to correct certain errors that we discovered during verification. The revised payment dates for April and May 1998, based on customer-specific averages, comprised part of FAG Italy's post-verification amendments. In these reviews, as in past reviews, we allowed FAG Italy to calculate its payment dates on the basis of customer-specific averages because it did not maintain its payment records in a manner which provided transaction-specific payment dates. See FAG Italy's August 28, 1998, Section B questionnaire response at 31. We have not found the use of the averages to be unreasonably inaccurate or distortive. Moreover, this methodology is consistent with ones we have accepted in other segments of these proceedings where companies were not able to provide transaction-specific payment dates. See, *e.g., AFBs 6,* 62 FR at 2101, and *AFBs 7,* 62 FR at 54053. For these reasons, we have accepted FAG Italy's methodology and, consequently, its revised data for these final results.

Comment 2: Torrington argues that the Department should either reject or recalculate Koyo's home-market credit adjustment because its reporting method accounts for neither actual payment periods nor special agreements between Koyo and its customers for reducing accounts-receivable balances. Torrington contends that, since Koyo is able to distinguish all home-market transactions by product code, the sale date, the customer code, and the sales branch, reporting of actual payment periods is possible. Torrington concludes that, since Koyo calculates a customer-specific average, based on the ratio between receivables and sales rather than reporting actual payment periods, its methodology is inherently flawed.

Koyo argues that, although Torrington states that Koyo can distinguish home-market transactions by product code, the sale date, the customer code, and the sales branch, Torrington does not mention that these data are all invoice items, not payment information. Koyo states that it keeps its customer receivables on a customer-specific basis but not on an invoice-specific basis. When Koyo receives payment from a customer, the respondent explains, it applies the payment to that customer's accounts receivable balance and not to a specific invoice. Koyo states that its methodology of calculating the average number of days until receipt of payment by dividing the accumulated month-end receivables for each customer by the average daily sales to that customer is acknowledged widely as a standard measure of accounts receivable turnover. Koyo maintains that the Department has accepted this methodology in previous reviews. Finally, Koyo argues that certain arrangements it has with specific customers regarding payment types, *e.g.,* cash and 30-day notes, do not distort Koyo's home-market credit expenses because it accounted for these payments in its calculation of the average number of days outstanding which it then used for calculation of home-market credit expense.

Department's Position: Based on our review of information on the record, we find no indication that Koyo has changed its computerized payment-record system so that it can link specific shipments to payments. We examined Koyo's credit expense calculations during verification and found, as in *AFBs 4, 5, 6, and 7,* that Koyo's methodology reflects that which it reported in its questionnaire response dated August 28, 1998, at B–11. Therefore, in these reviews, as in *AFBs 4 through 7,* we have accepted Koyo's calculation of its home-market credit expense for each customer on the basis of the average number of days that receivables are outstanding. We are also satisfied by information on the record of this and previous reviews that the arrangements that Koyo has with certain customers regarding payments do not distort Koyo's home-market credit expense calculations.

4.B. Technical Services and Warranties

Comment 1: Torrington argues that SNR's claim that it incurred no direct technical-service expenses on its EP sales is not supported by information on the record. Torrington states that SNR's description of its selling functions regarding EP sales reveals that EP sales benefit from considerable technical-service expenditures by SNR and that such service expenditures are likely to have a significant direct expense portion. Since SNR did not distinguish direct and indirect technical-service expenses, Torrington asserts that the Department should treat such expenses as direct expenses.

SNR argues that Torrington completely ignores the fact that SNR did distinguish its technical-service expenses in its August 28, 1998, questionnaire response at C–32. SNR concludes that, since Torrington has not rebutted SNR's evidence illustrating why SNR's treatment of technical-services expenses was correct, the Department should accept these expenses as indirect in nature.

Department's Position: We have examined the information on the record and have concluded that the record supports SNR's contention that the technical services rendered were indirect. In particular, SNR's Section C questionnaire response dated August 28, 1998, at C–32 indicates that the expenses reported under this item covered the fixed expenses incurred in providing technical advice to salesmen concerning subject and non-subject merchandise. We have found that SNR's U.S. technical expense (*i.e.,* salary and benefit expense) is a fixed expense that can neither be related to individual sales nor subject or nonsubject merchandise. We examined the information on the record and found no support for Torrington's allegation that SNR's EP sales benefit from ''considerable technical service expenditures'' by SNR. Since there is no indication on the record that SNR incurred direct technical expenses, we have made no changes to our treatment of SNR's technical services as an indirect expense.

Comment 2: Torrington argues that the Department should review Nachi's direct and indirect technical-services expenses and, if Nachi included any direct technical-service expense in indirect technical-service expense, the Department should restate Nachi's indirect expenses and reduce the CEP-offset ''cap.'' Torrington contends that Nachi replaces faulty bearings as part of its technical-services program and reported the costs of replacements as an indirect technical-service expense.

Nachi argues that the Department's practice has been to accept Nachi's reporting of the costs associated with the activities of Nachi Technical Center (NTC) as an indirect technical-service expense since NTC does not provide services, whether related to sales, repairs, or replacement of bearings, to customers directly. Nachi contends that it did not report the costs of replacements as indirect technical-service expense but as a direct expense in another expense category.

Department's Position: Based on our analysis of the record, we agree that Nachi reported the costs associated with NTC as indirect expenses correctly. Because such expenses, consisting principally of salaries and benefits of NTC personnel, are fixed expenses, it was proper to report them as indirect expenses. In addition, the record supports Nachi's claim that replacement costs are captured as a direct expense in another expense category. Due to the proprietary nature of this argument, see the Department's Analysis Memorandum for Nachi, dated June 15, 1999, for a more detailed discussion of this expense.

Comment 3: Torrington argues that SKF France's claim that it incurs no direct expenses for technical services on its EP sales to the United States for merchandise manufactured by its affiliate, Sarma, is not supported by the record. It argues that, due to the demanding nature of the market to which Sarma sells (*i.e.*, OEMs in the aerospace industry), it is likely that Sarma incurs significant direct selling expenses for technical and engineering services. Torrington contends that this is confirmed by SKF's reporting of a high degree of engineering services performed by Sarma. Torrington adds that the ledger of Sarma's indirect selling expenses includes items traditionally regarded as variable expenses. Citing *AFBs 3 and AFBs 4,* Torrington argues that, where the Department finds that the respondent has not distinguished between direct and indirect technical-services expenses, it is the Department's policy to treat such expenses as direct in the United States. When such information is lacking, Torrington continues, the Department calculates a direct-expense deduction on the basis of facts available. Torrington concludes that the Department should calculate and apply a direct-expense rate based on facts available in this case.

SKF France states that its reporting of indirect selling expenses for Sarma is correct and that the Department should continue to accept such expenses as reported. SKF France asserts that its response to the Department's questionnaire indicates that Sarma does not provide direct technical services or advice to its customers and that Sarma's technical department only provides general design and quality-control advice for future bearing development. Thus, the respondent contends, the response supports SKF France's claim that expenses are indirect in nature. SKF notes that its selling-function chart, which depicts the levels of activity and functions for indirect selling activities and which shows a high level of engineering services, is consistent with its narrative response. It argues that the expenses related to the activity the petitioner identifies (in Sarma's indirect selling expense ledger as being traditionally regarded as a variable expense) are not direct since they do not vary with the quantity sold nor are they tied to specific sales.

Department's Position: SKF France stated in response to our questionnaire that its affiliate, Sarma, does not provide direct technical services to its U.S. customers. We found no record evidence that SKF France misclassified these expenses as indirect selling expenses. Moreover, there is no presumption that a company operating in Sarma's market should have direct selling expenses. Thus, the petitioner's allegation alone does not call into question Sarma's responses. In response to the petitioner's reference to *AFBs 3* and *AFBs 4*, it is clear that in these cases the Department found that the respondents did not distinguish direct and indirect expenses. Furthermore, in *AFBs 3*, in addition to not distinguishing between direct and indirect expenses, the respondent did not indicate that the expenses were all indirect in nature. Because there is no indication from the record of these reviews that certain indirect expenses should be reclassified as direct expenses, we have accepted SKF France's expenses as reported.

Comment 4: Torrington argues that the Department should reallocate FAG Germany's U.S. technical-service expenses because FAG Germany's allocation methodology is distortive. Torrington contends that FAG Germany's selling-functions chart indicates that these expenses are incurred in greater amounts for some types of sales than for others and argues that the Department should reallocate these expenses to take this into account. Torrington argues further that the record shows that FAG Germany likely incurred significant direct technical-service expenses on certain EP sales even though FAG Germany did not report such expenses. Torrington argues that the Department should, consistent with its policy where a respondent has not distinguished direct and indirect technical-service expenses, treat all of FAG Germany's indirect technical-service expenses as direct expenses.

FAG Germany argues that there is no demonstrative correlation on the record between selling functions and selling expenses. In this regard, FAG Germany notes that the description of selling functions in the selling-functions chart includes indirect as well as direct technical-service expenses and thus cannot be used as a basis for determining the accuracy of its reported direct expenses. FAG Germany contends further that, because it had no reported U.S. sales of the type that Torrington contends should incur more expense, the issue is essentially moot. Thus, FAG Germany concludes that there is no basis for imputing a facts-available direct technical-service expense for FAG Germany's EP sales.

Department's Position: FAG Germany reported no direct technical-service expenses on its EP sales. See FAG Germany's supplemental response dated October 27, 1998, at 12. Because the chart of selling functions FAG Germany provided in its response includes all technical-service expenses, including indirect selling expenses, it is not a reliable guide for demonstrating an inconsistency in FAG Germany's response with regard to technical-service expenses. Moreover, Torrington's suggestion that FAG Germany should have incurred such expenses, without record evidence demonstrating the existence of such expenses, is insufficient to call the record evidence into question. Therefore, we have not made any adjustment to FAG Germany's claimed amount.

Comment 5: Torrington argues that the Department should reject NSK-RHP's claim that RHP Aerospace incurred no direct technical-service expenses for EP sales. Torrington argues that NSK–RHP's questionnaire response contradicts the respondent's claim that this expense is indirect in nature and, therefore, the Department should calculate a direct-expense factor for technical-service expenses as a basis for facts available.

NSK–RHP responds that the Department verified NSK–RHP's reported U.S. indirect technical service expenses and found no discrepancy, thereby confirming that there was no direct link between RHP Aerospace's technical services and sales. NSK–RHP argues that Torrington has attempted to refute NSK–RHP's claim by overlapping different sections of NSK–RHP's response inaccurately.

Department's Position: We verified the accuracy of NSK–RHP's claim that it incurred no direct technical-service expenses for EP sales and found no discrepancies. See *Verification Report of NSK–RHP's Response to Sections A, B and C of the Department's Questionnaire* at 14, dated January 21, 1999. Accordingly, we have not calculated a direct technical-service expense factor for RHP Aerospace based on facts available.

4.C. Commissions

Comment: NTN argues that the Department's methodology for determining that its home-market commissions were not made at arm's length is unreasonable. NTN contends that commission rates vary significantly between selling agents according to the services provided by each agent and that the Department's methodology does not account for these differences. NTN also asserts that the Department's methodology does not account for differences related solely to levels of trade. Finally, NTN asserts that the fact that commissions paid to related parties are often much higher than those paid to unrelated parties demonstrates that the Department's methodology is distortive. By reviewing commission rates on an individual basis rather than a weighted-average basis, NTN asserts, the Department can determine which sales were made on an arm's-length basis accurately.

Torrington argues that the Department's methodology is appropriate. Torrington contends that NTN provides no concrete evidence that the Department's reliance on a commission-rate comparison is not appropriate to determine whether commissions paid to related sales agents were at arm's length. Citing *AFBs 6,* 62 FR at 2099, Torrington observes that the Department's test of NTN's commissions conforms with it prior practice with regard to other respondents.

Department's Position: There is no evidence on the record supporting NTN's claim that commission rates vary significantly between selling agents according to the services provided by each agent. As NTN notes, its response indicates that it negotiates commission rates with each selling agent. However, NTN has not provided any explanation as to how or why commission rates might vary or any information regarding the differences in services rendered by different selling agents. In the absence of such information, it is reasonable to presume that commissions paid to affiliates which are higher than those paid to unaffiliated parties are not at arm's length.

Furthermore, NTN's assertion that ''commissions paid to related parties are often much higher than those paid to unrelated parties' does not demonstrate that our methodology is unreasonable. Rather, it indicates that the commissions paid to those related parties are more favorable than those paid to unrelated parties and, therefore, are not at arm's length. In addition, while it is true that NTN performs a number of different selling functions for different levels of trade, the record does not show or suggest that the selling functions performed by the selling agent vary by level of trade.

The record also does not show or suggest that NTN pays different commissions to selling agents depending on the level of trade of the ultimate customer. Finally, with respect to this issue, it is important to note that the purpose of our commission arm's-length test is to determine whether the commissions paid are at arm's-length amounts, not whether the sales themselves made to affiliated parties were at arm's-length prices. Indeed, we have a separate test for determining whether sales were made at arm's-length prices. Therefore, we have not altered our methodology.

4.D. Other Direct Selling Expenses

Comment 1: Torrington argues that the Department should recalculate Koyo's U.S. direct selling expenses. Torrington asserts that Koyo did not account for the expenses of administering a certain sales program sponsored by Koyo Corporation of the U.S.A. (KCU). Koyo argues that Torrington's argument is a misrepresentation of the record because Koyo accounted for the expenses fully in KCU's U.S. selling expenses reported in Section C of its questionnaire response.

Department's Position: We are satisfied by information on the record that Koyo has accounted for these expenses in its response. We have verified this item in previous reviews and find no information for these reviews that would indicate that the reporting of this expense has changed. Due to the proprietary nature of the comments raised by Torrington, see the Department's Analysis Memorandum for Koyo, dated June 16, 1999, for a more detailed discussion of this expense.

Comment 2: NPBS argues that the statute makes no provision for the deduction of repacking expenses from U.S. price. Accordingly, NPBS asserts that the Department should not make any adjustment to U.S. price for repacking expenses.

Department's Position: As we discussed in the CEP-profit section of this notice (see below) we view repacking expenses as direct selling expenses that the respondent incurs as a result of the sale. Accordingly, we deduct such expenses from U.S. price pursuant to section 772(d)(1)(B) of the Act which directs us to deduct from the CEP ''* * * expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees and warranties.'' See also *AFBs 8,* 63 FR at 33339, and *Porcelain-on-Steel Cookware from Mexico; Final Results of Antidumping Duty Administrative Review,* 64 FR 26934, 26942 (May 18, 1999). Therefore, we have deducted repacking expenses from the CEP.

4.E. Indirect Selling Expenses

Comment 1: Torrington argues that the Department should not deduct from normal value Koyo's indirect selling expenses and those reported for two consolidated affiliated resellers (distributors) in the home market. Torrington contends that Koyo has not supported its claim that the former are in addition to the latter expenses.

Koyo contends that it was appropriate to accept its reported indirect selling expenses. Koyo argues that all three companies—Koyo Seiko and its two consolidated distributors—are involved in the selling of the product to the ultimate customer. Koyo argues, therefore, that it is appropriate to deduct the indirect selling expenses of each of the three from the gross home-market price. Koyo states that Torrington bases its argument incorrectly on a situation where the product is sold to a related party. In the instant situation, Koyo argues, it does not sell the bearings to its consolidated distributors but rather simply shifts the responsibilities of some of the selling functions to the consolidated distributors.

In response to Torrington's assertion that Koyo's indirect selling expenses are the same as those reported for its two consolidated distributors, Koyo argues that, at each stage in the chain from Koyo Seiko to the ultimate customer, Koyo Seiko and the two consolidated distributors incur expenses individually in support of those sales to the ultimate customer. Koyo contends further that, because each company incurred discrete expenses in the process of selling the merchandise to the ultimate customer, the Department adjusted home-market price for those expenses correctly. Finally, Koyo concludes that there has been no double-counting of indirect selling expenses and therefore there is no need for the Department to recalculate Koyo's home-market indirect selling expenses.

Department's Position: We examined Koyo's distributors' expenses closely at verification. We found no indication that there had been double-counting of indirect selling expenses. We were able to verify that each company incurred discrete expenses in the process of selling the merchandise to the ultimate customer. Therefore, we have not recalculated Koyo's home-market indirect selling expenses.

Comment 2: Torrington notes that INA reported that its U.S. affiliate reimbursed the parent company for certain indirect selling expenses incurred in Germany to support sales to the United States. The petitioner contends that these reimbursements are associated with U.S. commercial activity and should be deducted from CEP. As facts available, the petitioner suggests that the Department deduct from CEP all of the reported indirect selling expenses incurred in Germany to support sales to the United States.

INA argues that it has included the reimbursed expenses in the total U.S. indirect selling expenses incurred by its U.S. affiliate. INA asserts that, as a result, the Department has already deducted such expenses from the CEP.

Department's Position: The evidence on the record indicates that the reimbursements in question are reflected in INA's ISE totals. Thus, we have already deducted the reimbursements at issue from CEP and the use of facts available is not warranted.

Comment 3: Torrington argues that the Department should review NTN's U.S. ISE calculation to ensure that it is not distortive. Torrington contends that NTN apparently removed a portion of the warehousing expense from its total indirect selling expenses on the ground that these expenses were not allocable to subject merchandise. Torrington argues that, because NTN allocated the remaining indirect selling expenses to both subject and non-subject merchandise, NTN's methodology may be distortive.

NTN indicates that it removed a portion of its warehousing expense from total warehousing expenses because this portion was associated exclusively with warehousing non-subject merchandise. NTN asserts that the remaining expenses have to be allocated between subject and non-subject merchandise because these expenses were incurred on both subject and non-subject merchandise.

Department's Position: It is appropriate to remove the warehousing expenses incurred exclusively on non-subject merchandise to the extent that the sales of the non-subject merchandise in question are not included in the sales total used to allocate the expenses. A comparison of Exhibit C–8 to the financial statements NTN submitted in Exhibit A–18 of its September 5, 1998, response suggests that NTN did not include the sales on which these warehousing expenses were incurred in its calculation of per-unit indirect selling expenses. Therefore, we determine that NTN's allocation of warehousing expenses is not distortive.

Comment 4: NTN argues that the Department should not have recalculated its home-market and U.S. indirect selling expenses without regard to its customer categories. NTN observes that its selling functions differ between levels of trade and NTN contends that, by reallocating selling expenses without regard to the level of trade, the Department distorted the margin calculation because the expenses are not the same for each level of trade. NTN argues this is particularly true of sales made by NSCL, an affiliated party in the home market, because NSCL sells only to distributors.

Torrington observes that the Department has rejected NTN's argument in prior reviews. Torrington contends further that NTN neither acknowledges the Department's prior decisions nor does it acknowledge any changes in its reporting.

Department's Position: We rejected NTN's allocation methodology because the method that NTN used to allocate its indirect selling expenses does not bear any relationship to the manner in which NTN incurs the expenses in question, thereby leading to distorted allocations. We have addressed this issue in prior reviews. See *AFBs 8*, 63 FR at 33329, first addressed in *AFBs 3*, 58 FR at 39750. NTN has not changed the methodology we rejected in these prior reviews nor has it presented any evidence that its selling expenses are incurred in the manner in which it allocated the expenses. In addition, we note that we allocated expenses incurred by NSCL only to NSCL's sales. The only change we made to NSCL's expenses was to segregate warehousing expenses so we could treat them as a movement expense. Therefore, we have not distorted the selling expenses attributable to NSCL's sales.

Comment 5: Torrington notes that, under a reserve for doubtful accounts, SKF Italy reported negative amounts as revenue for the account and reported positive amounts as bad-debt expenses. Torrington argues that the Department should not accept the positive amount in SKF Italy's reserve for doubtful accounts as indirect selling expenses because SKF Italy has not demonstrated that the bad-debt expense was incurred on sales of subject merchandise and contends that, without supporting evidence, no adjustment should be made. In support of its position, Torrington cites *AFBs 4*, 60 FR at 10916: ''(a)lthough [the respondent] claimed as an expense an amount set aside in reserve in the event that its customers fail to pay outstanding charges in the future, Koyo failed to demonstrate that it actually wrote off any bad debts during the [POR]'' (material in brackets added).

SKF Italy contends that Torrington misapprehends the nature of the respondent's reserve for doubtful accounts. SKF Italy explains that the negative amount represents the actual collection of bad debt that was outstanding and written off which offsets the positive amount that represents bad debt that was actually written off. SKF Italy indicates that it considers and records such expenses as indirect and argues that, since indirect selling expenses are allocated over all home-market sales, whether such expenses relate strictly to subject merchandise is not an appropriate issue.

Department's Position: As SKF Italy reported in its response that it incurred actual bad-debt expenses during the instant review from the write-off of actual bearing sales, this situation differs from the one cited by Torrington, and we believe an expense adjustment is appropriate. Further, as we said in *AFBs 4*, 60 FR at 10917, we consider bad-debt expense to be either direct or indirect depending on the relationship between the bad-debt expense and the sale. Based on the information reported in SKF Italy's response, we find that the bad-debt expense does not bear a direct relationship to the sale of merchandise made during the POR because SKF Italy is unable to tie these expenses to particular sales. Accordingly, we have treated its bad-debt expenses as indirect for these final results.

5. Level of Trade

Comment 1: Torrington argues that NTN has not demonstrated that it is entitled to a level-of-trade adjustment or CEP offset because it did not provide information that the Department requested. In addition, Torrington argues that NTN's descriptions of the selling functions it performs for its EP level of trade demonstrates that the EP level of trade is not comparable to any level of trade in the home market and, therefore, NTN is not entitled to a level-of-trade adjustment with respect to any of its home-market sales. Torrington asserts that NTN has an office which serves the EP customer and performs a number of selling functions that are not performed at any other level of trade. Torrington also observes that Exhibit A–7 of NTN's September 5, 1998, questionnaire response indicates that all merchandise is packaged and shipped to the EP customer's specifications and, Torrington argues, NTN does not provide this service to customers at any level of trade in the home market.

Finally, Torrington asserts that the record does not demonstrate that there are patterns of consistent price differences among sales at different levels of trade in the home market. Torrington bases its argument on its assertion that there is significant overlap between the prices at the different levels of trade. Torrington asserts that, because a popular model could skew the relative figures significantly and distort the analysis of consistent price patterns, the Department's analysis of the patterns of price differences by quantity is misleading.

NTN contends that it provided the information which the Department requested. NTN also argues that the Department issues supplemental questionnaires routinely and that the fact that the Department asks a question does not necessarily mean that a response contains a deficiency.

With respect to its EP sales, NTN contends that it provides essentially the same services for its EP sales as it does for one of its home-market levels of trade. NTN argues that the fact that it has an office which acts as a facilitator for EP sales is no more remarkable than the existence of branch sales offices throughout Japan to service customers in particular regions. NTN also argues that the fact that merchandise shipped to the EP customer is shipped to that customer's specifications is not unique because NTN packs all merchandise to its customers' specifications. Finally, NTN argues that the record demonstrates that there is a pattern of consistent price differences, that Torrington's arguments are based on conjecture, and that Torrington's claims are not supported by the record. NTN also contends that the Department's analytical methodology removed the distortions that Torrington suggests could occur.

Department's Position: For the preliminary results, we granted a level-of-trade adjustment for NTN's EP sales and made a CEP offset for NTN's CEP sales based on an analysis of NTN's responses to our requests for information. See Level of Trade Memorandum dated January 26, 1999. We have not changed the analysis for these final results.

We disagree with Torrington's assertion that NTN did not provide information to justify a level-of-trade adjustment. The information NTN provided was adequate for us to make an determination regarding NTN's level-of trade claims; therefore, Torrington's cite to NTN's supplemental response in support of its contention is inappropriate. NTN's supplemental response indicated that there was no additional information beyond that originally reported and we made our determination that NTN was entitled to a level-of-trade adjustment for EP sales and a CEP offset for CEP sales on the basis of NTN's original submissions.

With regard to EP sales, we find that the record demonstrates that the level of trade of EP sales is the same as that of one of the home-market levels of trade. First, the existence of a separate sales office to service EP sales does not demonstrate, by itself, that the level of trade is necessarily different from one of the home-market levels of trade. Rather, what is important is whether the selling functions performed by NTN (including the functions performed by the selling office) for EP sales are similar to those performed for one of the home-market levels of trade. We find that this is, in fact, the case. We disagree with Torrington's claim that the selling functions performed by NTN's EP sales office are not performed for any of the home-market levels of trade. Rather, we find that most of the expenses incurred by the EP sales office to which Torrington refers are likely to be incurred by any sales office and that the others can reasonably be correlated with the home-market selling functions NTN performed. See NTN final results analysis memorandum dated June 16, 1999.

Second, we do not find remarkable that merchandise shipped to the EP customer is packaged and shipped to that customer's specifications, given the nature of the customer for EP sales. There is no evidence on the record, nor any logical reason to believe, that merchandise shipped to customers which comprise one of the home-market levels of trade are not also packaged and shipped to the customer's specifications.

Furthermore, the SAA at 830 directs that, ''[w]hile the pattern of pricing at the two levels of trade under section 773(a)(7)(A) must be different, the prices at the levels need not be mutually exclusive; there may be some overlap between prices at the different levels of trade.'' We agree with Torrington that the amount of overlap measured in the number of models sold is substantial. However, the record demonstrates that the overlapping models account for a very small percentage of the total quantity of sales. The record also demonstrates that, for the vast majority of sales, measured by quantity, prices are higher at one level of trade than for the other. It is on this basis that we conclude that there is a pattern of consistent price differences between the two levels of trade.

Finally, while it may be theoretically possible that one popular model could skew the relative figures significantly and distort the analysis of consistent price patterns, Torrington does not cite any evidence on the record to suggest that this is happening. In addition, if one accepts Torrington's premise, it is also just as possible that a popular model could skew the relative figures so that we would *not* find a pattern of consistent price differences. More importantly, however, if we do not incorporate the figures from our analysis of the pattern of price differences by quantity into our calculations, it would be possible that a number of models that are sold infrequently and in low quantities could influence our analysis unduly. Therefore, we continue to base our findings on all of the information available to us and, on this basis, we find that there is a pattern of consistent price differences between the home-market levels of trade. Because there is such a pattern and because the level of trade of NTN's EP sales is the same as one of its home-market levels of trade, we made a level-of-trade adjustment whenever we compared NTN's EP sales to home-market sales made at a different level of trade for these final results.

Comment 2: NTN argues that the Department should use the transaction to the first unaffiliated customer in the United States to determine the level of trade of CEP sales. NTN contends that it would then qualify for a price-based level-of-trade adjustment. NTN also asserts that the Department's methodology of examining the level of CEP sales net of the functions whose expenses are deducted from CEP effectively bars all CEP transactions from ever being granted a price-based level-of-trade adjustment because the selling functions which a respondent performs in the home market are performed by its affiliated U.S. importer for CEP sales. NTN argues that this is contrary to the intent of the SAA and the legislative history of the Act.

Torrington observes that the Department has rejected NTN's argument in prior reviews. Torrington contends further that NTN neither acknowledges the Department's prior decisions nor discusses why the Department should reach a different decision in these reviews.

Department's Position: The statutory definition of ''constructed export price'' contained at section 772(d) of the Act indicates clearly that we are to base CEP on the U.S. resale price adjusted for selling expenses and profit. As such, the CEP reflects a price exclusive of all selling expenses and profit associated with economic activities occurring in the United States. See SAA at 823. These adjustments are necessary in order to arrive at, as the term CEP makes clear, a ''constructed'' export price. The adjustments we make to the starting price, specifically those made pursuant to section 772(d) of the Act (''Additional Adjustments for Constructed Export Price''), normally change the level of trade. Accordingly, we must determine the level of trade of CEP sales exclusive of the expenses (and concomitant selling functions) that we deduct pursuant to this sub-section. Therefore, because no home-market levels of trade reported by NTN were equivalent to the level of trade of its CEP sales, we were unable to make a level-of-trade adjustment for such sales.

The CIT has held recently that the Department's level-of-trade practice (basing the level-of-trade comparisons of CEP after making CEP deductions) is an impermissible interpretation of section 772(d) of the Act. See *Borden* at 58; see also *Micron Technology* v. *United States,* Court No. 96–06–01529, Slip Op. 99–02 (CIT January 28, 1999) (*Micron*). The Department believes, however, that its practice is in full compliance with the statute and that the CIT decision does not contain persuasive statutory analysis. The *Borden* decision became final on June 4, 1999 (Slip. Op. 99–50, Court No. 96–08–01970 (CIT 1999)). Because the time for filing an appeal of *Borden* has not yet run and *Micron* is not yet final, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) of the Act prior to starting a level-of-trade analysis, as articulated in 19 CFR 351.412.

Comment 3: NSK and NSK–RHP argue that the Department should make a level-of-trade adjustment when CEP sales are matched to home-market aftermarket sales. NSK and NSK–RHP contend that the Department can make a level-of-trade adjustment on the basis of the difference between the OEM and aftermarket levels of trade in the home market. NSK asserts that, although the home-market OEM sales and the level of CEP sales are not equivalent, the Department is not required to adjust for the entire amount of the difference between levels of trade when making a level-of-trade adjustment and could make a partial adjustment instead. NSK and NSK–RHP contend that the levels of home-market OEM sales are closer to the levels of CEP sales than the levels of home-market aftermarket sales because the prices for home-market OEM sales are lower than the prices for home-market aftermarket sales. NSK and NSK–RHP assert that it would be appropriate, therefore, to adjust normal value with a level-of-trade adjustment based on the difference between the home-market levels of trade whenever CEP sales are compared to home-market aftermarket sales.

Torrington notes that the Department rejected this argument in *AFBs 8* when NSK raised it for those reviews. Torrington, citing the Department's position from the prior reviews, argues that the Department should maintain its position.

Department's Position: There is no provision in the statute for making such a partial adjustment. We make a level-of-trade adjustment when there is ''any difference between the export price or constructed export price and the normal value that is shown to be wholly or partly due to a difference in level of trade between the export price or constructed export price and the normal value.'' See section 773(a)(7)(A) of the Act. We interpret the statutory phrase ''wholly or partly due to a difference in level of trade'' to mean that we may make a level-of-trade adjustment only if part of the differences in prices between levels of trade is attributable to the difference in level of trade. In other words, we need not demonstrate that no factor other than level of trade influenced a pattern of price differences. Thus, we do not read into this language of the statute the authority to make a level-of-trade adjustment between two home-market levels of trade where neither level is equivalent to the level of trade of the U.S. sale. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2558, 2578 (January 15, 1998), and *AFBs 8*, 63 FR at 33330.

Comment 4: Torrington argues that Nachi's sales to affiliated and unaffiliated resellers do not constitute one level of trade. Torrington asserts that selling-expense levels must differ for Nachi's affiliated and unaffiliated customers due to the nature of the affiliated customers' relationships to Nachi and, in certain cases, the Department should not allow a CEP offset to Nachi's home-market prices (the proprietary nature of the information does not permit us to describe this issue with more specificity). Torrington supports its position by citing the SAA at 829, which states that ''a sales subsidiary created merely to perform the role of a *de facto* sales department is not an appropriate basis for level-of-trade adjustments.''

Nachi argues that Torrington does not cite any information on the record to demonstrate how Nachi's sales to affiliated and unaffiliated parties involve ''different selling activities.'' Nachi argues that, when it provided the Department with an analysis of its selling functions performed in sales to OEMs and sales to distributors, it did not distinguish between affiliated and unaffiliated distributors precisely because there are no differences in selling functions between the two. Nachi maintains that the Department was correct in finding that one level of trade exists in Nachi's home market and that a level-of-trade difference from the CEP level of trade justifies the application of a CEP-offset adjustment to normal value in accordance with section 773(a)(7)(B) of the Act.

Nachi argues that Torrington's reference to the SAA is irrelevant and taken out of context. Nachi maintains that it is clear that its affiliated resellers are not subsidiaries created merely to act as *de facto* Nachi sales offices. Nachi contends that Nachi has its own sales branches and that it reported the selling expenses of these sales branches as indirect selling expenses. Nachi argues further that a close reading of the SAA reveals that it is addressing the potential for manipulation that could result when a company incorporates a sales branch, thereby turning the sales branch into a subsidiary. Nachi states that the parent company may then claim that sales made by the subsidiary are at a different and higher level of trade than that of the parent, even though there has been no change at all in the functions performed, in order to gain the benefits of the CEP offset. Nachi states that Torrington's argument is focused on the selling activities which Nachi performed when selling to the affiliates and not the selling activities of the affiliated distributors. Nachi also argues that, through the application of the arm's-length test, the Department eliminates sales by Nachi to its affiliates that are not made at an arm's-length price. Nachi states that those remaining sales are made at the same or higher price than the prices of sales made to unaffiliated parties. Nachi maintains that the similarity in pricing of the sales that are used in the margin calculation is further assurance that Nachi incurs the same costs and performs the same selling functions in sales to both affiliated and unaffiliated parties.

Department's Position: Based on our review of the information on the record, we find no indication that Nachi's dealings with both affiliated and unaffiliated parties involve different selling functions and services. We reviewed the selling functions and services Nachi performed in sales to OEMs and sales to distributors and found that the selling functions and services performed were similar in making sales to both. There is no information on the record that indicates that Nachi's actual experience in the home market is contrary to that reported in its submissions. Therefore, we determined that there was one level of trade in Nachi's home market. Based upon our examination of the information on the record, we found that the home-market level is not equivalent to the level of the CEP. Our determination is supported further by the arm's-length test, through which we found that Nachi dealt with its resellers on an arm's-length basis with respect to pricing. Also, there is insufficient evidence on the record to indicate that any of Nachi's resellers performed the role of a *de facto* sales department. Therefore, since we determined that the home-market level of trade was at a more advanced stage than the CEP level of trade, a CEP-offset adjustment to home-market price is appropriate.

6. Cost of Production and Constructed Value

6.A. Profit for Constructed Value

Comment 1: FAG Germany and FAG Italy (collectively, FAG), Barden, INA, NSK, NSK-RHP, SNR, and SKF France, SKF Germany, SKF Italy, SKF Sweden (collectively, SKF) argue that the Department's calculation of profit for CV is unlawful in that it excludes below-cost sales from the calculation. The respondents argue that the profit-calculation methodology, which the Department based on all reported sales at each level of trade within each class or kind of merchandise, is not permitted under section 773(e)(2)(A) of the Act, which requires the Department to calculate profit ''in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country.'' The respondents argue that ''foreign like product'' is indisputably a much smaller group than the ''class or kind'' of merchandise. Moreover, they argue, the Department's interpretation of ''foreign like product'' for the purposes of calculating CV profit is contrary to the definition of the term under section 771(16) of the Act. Under this section, the respondents continue, ''foreign like product'' is defined as merchandise in the first of three enumerated categories which is merchandise sold in the home market that is either identical or sufficiently similar to particular subject merchandise. They contend that calculating profit by aggregating different foreign like products results in the use of merchandise classified on a class-or-kind basis, which is consistent with the provision under section 773(e)(2)(B)(i) of the Act, requiring the Department to calculate profits ''in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise.''

The respondents contend further that, when calculating CV profit pursuant to section 773(e)(2)(B)(i) of the Act, it would be proper to assume that sales outside the ordinary course of trade should be included in the calculation because language limiting the calculation to sales within the ordinary course of trade is included in sections 773(e)(2)(A) and 773(e)(2)(B)(ii) of the Act but not in section 773(e)(2)(B)(i) of the Act. INA argues that, since the Department did not actually apply the methodology set forth in section 773(e)(2)(A) of the Act but, in fact, applied the methodology in section 773(e)(2)(B)(i) of the Act, the Department had no authority to exclude below-cost sales from its calculation of CV profit. SKF comments that the ''normal rule of statutory construction [is] that identical words used in different parts of the same act are intended to have the same meaning,'' citing *Sullivan* v. *Stroop*, 496 U.S. 478, 484 (1990) (internal quotations and citations omitted). SKF asserts further that, when the relevant act includes an explicit definition of the word or term in the same subchapter, this presumption is strengthened, citing *Sorenson* v. *Treasury*, 475 U.S. 851, 860 (1986). Thus, SKF concludes, the term ''foreign like product'' for purposes of the CV-profit calculation should be consistent with the definition of the term as used for matching purposes. FAG and Barden argue that, although the Department has stated in the past that it has adopted a different meaning for ''foreign like product'' for the purposes of calculating CV profit, this reasoning cannot prevail because Congress was aware of the statutory definition of ''foreign like product'' at the time it chose to include the term within the language of section 773(e)(2)(A) of the Act. Furthermore, FAG and Barden contend, the SAA states that section 773(e)(2)(B)(i) of the Act is consistent with the existing practice of relying on a producer's sales of products in the ''general class or kind of merchandise,'' which the SAA indicates ''encompasses a category of merchandise broader than the 'foreign like product,' '' citing the SAA at 840. INA adds that calculating profit on a foreign-like-product basis, as required by the plain language of the statute, is not any more complicated than other calculations performed routinely by the Department in a review, noting that the Department calculates weighted-average prices for each foreign like product and that CV is already calculated separately for each different bearing model, based on model-specific costs. INA argues further that, since CV serves as a proxy for a sales price, the logical reason for establishing section 773(e)(2)(A) of the Act as the preferred method of profit calculation is that it results in normal value that most closely approximates the normal value that would be determined based on sales of the foreign like product. Therefore, INA explains, under this method, if the profit earned on sales of the foreign product that is like the U.S. product is relatively high, then the profit add-on would be relatively high, resulting in CV for the U.S. product that correlates to price-based normal value. Conversely, INA continues, if the profit earned on sales of the foreign product that is like the U.S. product is relatively low, the profit add-on for CV would be relatively low. INA concludes that this differentiation, and thus the purpose of the section 773(e)(2)(A) method, is lost under the aggregated approach the Department applied in the preliminary results. INA, NSK, and NSK/RHP argue that, if all merchandise sold in the home market constituted a single foreign like product, then an average of all such sales would be used to determine a single normal value applicable to sales of every type of subject merchandise.

INA observes that the Department has made a subtle change in its description of foreign like product comparisons for AFBs. In prior reviews, citing *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Preliminary Results of Antidumping Duty Administrative Reviews, Termination of Administrative Reviews*, 61 FR 35713, 35717 (July 8, 1996), among others, INA contends that the Department stated ''[a]s defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that are the same in the following physical characteristics * * *,'' However, in these reviews, INA continues, the Department stated that, ''[a]s defined in the questionnaire, a bearing family consists of all bearings which are the foreign like product that are the same in the following physical characteristics * * *,'' referring to

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Reviews, 64 FR 8790, 8795 (February 23, 1999). INA believes that this is evidence of a shift by the Department in the rationale for its aggregate profit-calculation approach. ''Foreign like product'' is a product-specific concept and not a collective description of all foreign like products sold in the home market, INA asserts.

Torrington contends that the Department has already addressed the respondents' proposal to make multiple product-specific CV-profit calculations in *AFBs 7*, 62 FR at 54062, and that the Department concluded correctly that the respondents' proposal would be overly complex and make the statutorily preferred method inapplicable in most cases. Torrington concludes that the Department's method results in the application of the statutorily preferred method and is consistent with the similar use of aggregate data for profit and selling and general expenses in pre-URAA practice.

Department's Position: As we stated in *AFBs 7*, 62 FR at 54062, and *AFBs 8*, 63 at 33333, we believe that an aggregate calculation that encompasses all foreign like products under consideration for normal value represents a reasonable interpretation of section 773(e)(2)(A) of the Act. Moreover, we believe that, in applying the preferred method for computing CV profit under section 773(e)(2)(A) of the Act, the use of aggregate data results in a reasonable and practical measure of profit that we can apply consistently where there are sales of the foreign like product in the ordinary course of trade. In the preamble to our regulations, we stated:

> The Department recognizes that there are other methods available for computing SG&A and profit for CV under section 773(e)(2)(A) of the Act, including those suggested by the commenters. We continue to believe, however, that an aggregate calculation that encompasses all foreign like products under consideration for normal value represents a reasonable interpretation of the statute. This approach is consistent with the Department's method of computing SG&A and profit under the pre-URAA version of the statute, and, while the URAA revised certain aspects of the SG&A and profit calculation, we do not believe that Congress intended to change this particular aspect of our practice.
>
> Moreover, the Department believes that in applying the preferred method for computing SG&A and profit under section 773(e)(2)(A), the use of aggregate data results in a reasonable and practical measure of profit that the Department can apply consistently in each case. By contrast, a method based on varied groupings of foreign like products, each defined by a minimum set of matching criteria shared with a particular model of the subject merchandise, would add an additional layer of complexity and uncertainty to [antidumping] proceedings without generating more accurate results.

Final Rule

In addition, we disagree with the respondents' interpretation of the term ''foreign like product.'' In accordance with the definition of foreign like product under section 771(16) of the Act, it is clear that ''foreign like product'' is not limited to the product which is identical in physical characteristics to the subject merchandise (section 771(16)(A)) or even to the product that is similar to the subject merchandise (section 771(16)(B)). Merchandise of the ''same general class or kind'' as the subject merchandise (section 771(16)(C)) will qualify as the ''foreign like product'' in cases where either the identical or the similar merchandise is not available. There is no indication that, by referring to ''a foreign like product'' in section 773(e)(2)(A) of the Act, Congress intended that profit be calculated upon the basis of merchandise that is identical or similar to the subject merchandise. If Congress had such intentions, then the ''preferred'' method provided in section 773(e)(2)(A) of the Act would rarely be applicable since CV ordinarily becomes necessary for determining normal value when identical or similar home market merchandise is not available for comparison to the U.S. merchandise. Furthermore, the respondents imply that the term ''general category of products'' is synonymous with the class or kind of merchandise. However, there is no statutory indication that, for purposes of sections 773(e)(2)(B)(i) or 773(e)(2)(B)(iii) of the Act, the ''general category of products'' must correspond to the ''same class or kind of merchandise.'' It has been our past practice to interpret the term ''general category of products'' to ''encompass a group of products that is broader than the subject merchandise.'' See 19 CFR 351.405. For example, if the profit amount for AFBs were unavailable and the ''general category of products'' were available, then the Department could consider a profit amount for the general category of ''bearings,'' which could include all AFBs as well as tapered roller bearings (*i.e.*, subject and non-subject merchandise). This general category is broader than the ''subject bearings,'' which, in these cases, would be limited to ball, cylindrical, and spherical plain bearings, respectively. See *Shop Towels from Bangladesh, Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 55957, 55961 (October 30, 1996), and *Silicomanganese from Brazil; Final Results of Antidumping Duty Administrative Review*, 62 FR 37869, 37878 (July 15, 1997).

We also disagree with INA that calculating profit on a product-by-product basis is not any more complicated than calculating weighted-average prices or CV for each product. In general, the respondents have reported numerous varieties of bearings which fall into hundreds of product or family categories. Calculating CV profit on a product-by-product basis would require a product-by-product analysis and profit-calculation determination. For certain products, if there were sales (i.e., sales in the ordinary course of trade) of identical or family bearings, we would be able to use the preferred method under section 773(e)(2)(A) of the Act to calculate profit. However, for other bearing families, we would need to determine which of the three alternative methods under section 773(e)(2)(B) of the Act would be appropriate based on the factual situation before us. Given the number of bearing families, this would add layers of complexity which the Department does not face in calculating weighted-average prices or in calculating an aggregate profit figure. In the Department's view, Congress did not intend such a result when it enacted section 773(e)(2) of the Act.

Finally, we disagree with INA's comment that we have changed our description of bearing families in an effort to support our rationale for our CV-profit calculation. In describing bearing families for comparison purposes, we replaced the term ''class or kind'' with ''foreign like product'' simply because the term ''foreign like product'' is reflective of the new-law terminology concerning the merchandise subject to an order.

Comment 2: The SKF companies argue that, assuming that the Department continues to rely on section 773(e)(2)(A) of the Act for the CV-profit calculation, it should take the revenue from non-disregarded profitable sales, subtract from that figure the COP for those sales, and then divide by the total COP for all sales, both profitable and unprofitable (total sales revenue on non-disregarded profitable sales minus total COP on non-disregarded profitable sales divided by total COP on all sales). SKF asserts that the URAA requires that CV profit reflect the ''actual amounts * * * realized'' by foreign producers. It also asserts that this proposed methodology would arrive at a more realistic assessment of a foreign producer's actual profit.

Torrington argues that the Department has rejected SKF's argument previously that non-profitable sales could be used in calculating profit and cites *AFBs 7,* 62 FR at 54062.

Department's Position: As we concluded in *AFBs 7,* section 773(e)(2)(A) of the Act requires us to use the actual amount for profit in connection with the production and sale of a foreign like product in the ordinary course of trade. Section 771(15) of the Act defines sales outside the ordinary course of trade as those sales disregarded under section 773(b)(1) of the Act because they failed the cost test. Thus, as required by law, the Department has continued to exclude sales that failed the cost test from the CV-profit calculation under section 773(e)(2)(A) of the Act.

6.B. Affiliated-Party Inputs

Comment 1: NTN disagrees with the Department's recalculation of the value of NTN's affiliated-party inputs. It contends that the Department should use NTN's reported actual costs for affiliated-party inputs. NTN observes that, while sections 773(f)(2) and 773(f)(3) of the Act provide for disregarding certain affiliated transactions, these provisions do not apply to NTN's factual situation. With regard to section 773(f)(2) of the Act, NTN contends that there is no evidence that its affiliated-party inputs do not reflect the amount usually reflected in the sales of merchandise under consideration. NTN also claims that the fact that an input may be sold at less than its COP does not necessarily mean that it is not reflective of a fair market price.

With regard to section 773(f)(3) of the Act, NTN contends that the Department must have reasonable grounds to believe that inputs are being sold at less than the COP before it may use COP information to value the inputs. NTN also contends that, while the statute permits the use of the rule only for major inputs, the Department did not distinguish between major and minor inputs in its recalculation of NTN's costs for the preliminary results. NTN also contends that the Department applied this methodology inappropriately to production processes performed by affiliated parties, which are, according to NTN, clearly different from major inputs.

Finally, NTN argues that, assuming the Department was justified in making the adjustment, the Department's calculation is distortive because it does not take into account NTN's cost accounting system. NTN claims that its reported costs are based on standard costs multiplied by variances. Thus, according to NTN, if the transfer price of a particular component were 100 yen and the variance was 5 percent, NTN reported a cost of 105 yen. Thus, NTN argues, if the affiliated supplier's actual cost was 103 yen, the Department would have made an adjustment based on the difference between the transfer price and the supplier's actual cost rather than NTN's actual cost.

Torrington observes that the Department has rejected this argument made by NTN in *AFBs 8* and should continue to reject it for the reasons the Department enunciated in that decision.

Department's Position: Pursuant to section 773(f)(3) of the Act, in the case of a transaction between affiliated persons involving the production of a major input, the Department may consider whether the amount represented as the value of the major input is less than its COP. In addition, section 351.407 of the Department's regulations states that, for purposes of section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of (1) the price paid by the exporter or producer to the affiliated person for the major input, (2) the amount usually reflected in sales of the major input in the market under consideration, or (3) the cost to the affiliated person of producing the major input. We have relied upon this methodology in past AFB reviews as well as in other cases. See, *e.g., AFBs 6,* 62 FR at 2117, *AFBs 7,* 62 FR at 54065, *AFBs 8,* 63 FR at 33337, and *Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Taiwan,* 64 FR 17336 (April 9, 1999) (*Round Wire from Taiwan*).

In this case, we asked NTN in our COP questionnaire to provide a list of the major inputs it received from affiliated parties which it used to produce the subject merchandise. NTN responded to the question by directing us to several exhibits. These exhibits list inputs which NTN considered to be major inputs and identify the respective transfer prices and supplier's cost information for the inputs. We examined this information and determined that in some instances the company's reported transfer prices were less than its respective costs. As there were no other market prices available in most instances, we restated NTN's COP and CV in the instances where the affiliated supplier's cost of producing the inputs was higher than the transfer price. Therefore, since we reasonably relied upon the information provided by NTN regarding the cost of major inputs it used in manufacturing the subject merchandise, we applied section 773(f)(3) of the Act correctly for purposes of determining COP and CV for our analysis.

NTN argues that the Department must have reasonable grounds to believe that inputs are being sold at less than COP before it may use COP information. The Department considers the initiation of a cost investigation concerning home-market sales a specific and objective reason to believe or suspect that the transfer price from a related party for any element of value may be below the related suppliers' COP. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 63 FR 20585 (April 27, 1998). This practice was affirmed by the Court of International Trade in *NSK Ltd.* v. *United States,* 910 F. Supp 663 (CIT 1995). Therefore, based upon prior case precedent, it was appropriate to consider the cost data available on the record in determining how to value major inputs.

Regarding NTN's allegation that we should not apply the major-input rule to production processes performed by affiliates, section 773(f)(3) of the Act directs us to examine the costs incurred for transactions between affiliated persons. These transactions may involve either the purchase of materials, subcontracted labor, or other services. Thus, we applied the major-input rule properly to the production processes performed by affiliates. This decision is consistent with our practice in prior reviews. See *AFBs 8,* 63 FR at 33337.

Finally, we disagree with NTN that our methodology is distortive. NTN's cost-reporting methodology does not account for the fact that the affiliate's cost is higher than the transfer price. NTN calculated its variances by comparing its standard costs to its actual costs, which are, for all inputs it purchased from all suppliers, based on the transfer prices from each supplier. As a result, the affiliate's costs do not enter into the calculation of NTN's variances and NTN's reported ''actual'' costs are based on transfer prices. Therefore, because the reported costs are based on transfer prices, it was appropriate to adjust the reported costs for the difference between the affiliate's cost and the transfer price when the affiliate's cost is higher than the transfer price. Therefore, we conclude that there is no reason to alter our methodology.

Comment 2: Torrington asserts that the Department should use facts available to value certain major inputs SKF Germany obtained from affiliated parties for which it did not provide market prices, contrary to the Department's questionnaire instructions.

SKF Germany rebuts that, since its related supplier does not sell these major inputs to unaffiliated parties, it does not have a comparable market value or price for the inputs it purchased from its affiliated suppliers. SKF Germany argues that its reporting is consistent with the questionnaire instructions as it has reported the higher of COP or transfer price for these inputs.

Department's Position: In its August 28, 1998, Section D response at 14, SKF Germany stated that the components it buys from affiliated suppliers are not sold by these affiliates to unaffiliated customers in Germany. In addition, at 17 of its Section D response, SKF Germany asserted that, ''[a]bsent an observable market for such purchases, the higher of cost/transfer price necessarily defines the statutory value for those inputs.'' Pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), we have accepted SKF Germany's reporting of its major-input costs. As cited above in response to comment 1, we have relied upon this methodology in past AFB reviews as well as in other cases.

Comment 3: Citing the Department's February 16, 1999, verification report for FAG Italy's COP and CV data, Torrington contends that the Department determined that FAG Italy's unaffiliated supplier's prices were not always lower than prices from affiliates even though FAG Italy claimed otherwise in an earlier submission. According to the petitioner, at the beginning of verification, FAG Italy presented revised COP and CV information that valued affiliated-party inputs on the higher of cost, transfer price, or arm's-length price. Further, the petitioner asserts, the Department's preliminary analysis memorandum regarding FAG Italy indicates that, for the preliminary results, the Department used the revised COP and CV information. The petitioner argues that, for the final results, the Department should only accept FAG Italy's revised COP and CV information to the extent that it is satisfied that FAG Italy reported the values of the affiliated-party inputs accurately based on the higher of COP, transfer prices, or arm's-length prices.

FAG Italy contends that it reported the revised costs for materials purchased from affiliated parties correctly and that the Department should accept them. Citing the Department's verification report, FAG Italy argues that the Department verified these corrections fully.

Department's Position: FAG Italy reported its revised costs of materials accurately and we have used the revised information for the final results of these reviews.

Comment 4: Citing the verification report, Torrington contends that FAG Italy excluded net financing expenses from its calculation of the COP of materials purchased from affiliated parties. The petitioner argues that the Department should only accept FAG Italy's revised data to the extent that it is satisfied that the correct amounts have been reported. Otherwise, Torrington contends, the Department should make all appropriate adjustments to FAG Italy's reported costs, thereby increasing the company's COP by the full net financing expenses for materials purchased from affiliated parties.

FAG Italy argues that it added financial expenses to the revised cost information specifically at the request of the Department. The respondent also contends that the Department verified this issue fully and accepted the information during the cost verification. FAG Italy contends that Torrington's concerns are unwarranted because the percentage of affiliated-party inputs to total inputs (by value and volume) is negligible and these revised material costs have no effect on the ultimate margin calculation.

Department's Position: FAG Italy included the net financial expenses in its revised cost information. We verified and accepted these new costs during our verification. See February 16, 1999, verification report on FAG Italy at 16.

Comment 5: Citing INA's August 28, 1998, section D questionnaire response at 7, Torrington notes that the respondent purchased inputs such as cages, blanks, and subcontracted processing from certain affiliates. The petitioner also notes that the Department requested that INA report the highest of transfer price, the affiliated supplier's cost, or the input's market price for major inputs purchased from an affiliated supplier. The petitioner asserts that INA did not comply with the Department's request since it reported neither transfer prices nor market values for the inputs purchased from a Slovakian affiliate and did not provide market values for the inputs obtained from a Hungarian affiliate. Furthermore, with respect to the inputs provided by the Slovakian affiliate, Torrington contends that, while INA valued the inputs at the affiliated supplier's costs, such costs are not reliable since INA ''grossed up'' the reported amounts to account for situations where INA supplied the affiliate with raw materials free of charge. For the inputs provided by the Hungarian affiliate, the petitioner also contends that INA did not support its claim that the transfer prices exceeded the affiliate's costs consistently. In light of the alleged reporting deficiencies, the petitioner requests that the Department not accept INA's reported costs for models incorporating inputs supplied by these affiliates and instead use facts available for the models involved.

INA contends that it followed the Department's instructions in reporting the value of the inputs which it obtained from its affiliates. It states that it reported the value of inputs purchased from the Slovakian affiliate at the affiliate's costs since no market prices were available and compiling transfer prices was extremely burdensome because to do so would have required tracing information manually through thousands of transactions. INA notes, however, that in its original questionnaire response it provided information to support its assertion that the cost figures were higher than the transfer prices. Moreover, for its supplemental questionnaire response, INA states that it conducted a manual search for transfer-price information and provided a comparison of transfer prices with costs to substantiate that the costs were almost always higher than the transfer prices. Furthermore, in situations where INA discovered that the transfer prices were higher than costs, it says it revised the COP and CV submissions to value the inputs from the affiliate based on the transfer prices.

INA rebuts the petitioner's assertion that the reported costs of inputs from the Slovakian supplier are not reliable. It contends that the petitioner has misconstrued the manner in which INA determined the costs and that the allegedly distortive ''gross up'' to which the petitioner refers was necessary for converting standard costs to actual costs, an adjustment that is consistent with the Department's instructions in its questionnaire. INA clarifies that, for situations in which it provided materials free of charge to its affiliate for the production of bearing inputs, it included standard and actual material consumption to calculate the gross-up factor for converting the standard material cost to an actual material cost.

INA asserts that this results in costs that reflect the cost of material consumed in producing the parts supplied by the affiliate accurately. INA cites the criteria set forth under section 782(e) of the Act for accepting information: the information is acceptable if it is timely, verifiable, sufficiently complete to serve as a reliable basis for a determination, provided to the best of the respondent's ability, and can be used without undue difficulty. INA contends that its valuation of the inputs meets these criteria.

INA contends that it provided both transfer price and cost data concerning purchases from its Hungarian affiliate as requested by the Department, and it clarifies that it did not provide market prices since it did not purchase the inputs from other sources and the affiliate did not sell the inputs to unaffiliated purchasers. INA contends that its valuation of these inputs on the basis of transfer prices is proper since the transfer prices were in all instances higher than the affiliate's costs. Finally, INA contends that it supported its claim by referring to the exhibit of its questionnaire response that contains a comparison of costs with transfer prices.

Department's Position: We find that the information INA used to value cages, blanks, and subcontracted processing provided by affiliates is proper in light of the information that it had available. Moreover, INA's reporting methodology complies with our regulatory requirements for valuing inputs from affiliates. Section 351.407 of our regulations states that, for purposes of calculating the COP and CV under section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of the following: (1) the price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. INA's reporting methodology fulfills this requirement considering the information that was reasonably available to it. Moreover, we have relied upon this methodology for valuing inputs in past AFB reviews as well as in other cases. See, *e.g., AFBs 8,* 63 FR at 33337, and *Round Wire from Taiwan,* 64 FR 17336 (April 9, 1999). Thus, we find that this situation does not warrant the use of facts available.

6.C. General and Administrative Expenses

Comment 1: Torrington argues that the Department should deny FAG Germany's claimed offset to its G&A for the gain on the sale and leaseback of certain assets. Torrington contends that, even if the Department agrees with FAG Germany that these assets are related to production, the Department should reject this offset because FAG Germany's sales-and-leaseback arrangement is not a routine disposition of fixed assets. Torrington cites *Certain Welded Stainless Steel Pipe from the Republic of Korea, Final Determination of Sales at Less than Fair Value,* 57 FR 53693, 53704 (November 12, 1992), in support of this contention. Torrington also claims that other evidence on the record suggests that the assets in question are related to real property owned by FAG Germany rather than to production.

FAG Germany argues that the case Torrington cites is inapposite to this case because, in that case, the plant that the respondent sold was not related to the production of the subject merchandise and the transaction was not a routine disposition of fixed assets. In this case, FAG Germany contends, the asset in question is the plant where most of the AFBs shipped to the United States are manufactured. FAG Germany also argues that a sale-and-leaseback transaction is a common commercial financing method and that the annual lease payments, as well as the amortized gain, FAG Germany made relative to the sale-and-leaseback transaction are included routinely in its G&A calculation. FAG Germany cites *Certain Steel Concrete Reinforcing Bars from Turkey,* 62 FR 9737, 9748 (March 4, 1997), and *Oil Country Tubular Goods from Mexico,* 60 FR 33567, 33574 (June 28, 1995), in support of its contention that its offset to G&A is proper. Finally, FAG Germany argues that, while the transaction included the land upon which the facilities are located, it was not simply a real-estate transaction but also included assets involved in the production of subject merchandise.

Department's Position: It is our practice to adjust G&A expenses for miscellaneous revenue and expenses related to the production of subject merchandise. See, *e.g., Certain Steel Concrete Reinforcing Bars from Turkey,* 62 FR 9737, 9748 (March 4, 1997), and *Oil Country Tubular Goods from Mexico,* 60 FR 33567, 33574 (June 28, 1995).

In this case, FAG Germany demonstrated, and the petitioner does not dispute, that the plant in question produced subject merchandise during the POR. See Exhibit D–1 of FAG Germany's section D response dated August 28, 1998. Further, FAG Germany's claimed offset to G&A expenses corresponds to the portion of the gain on the plant sale attributable to the current period, which FAG Germany amortized over the life of the lease. See FAG Germany's section D response dated August 28, 1998, at 28. In addition, FAG Germany included the expense from this lease in its calculation of the reported G&A expenses. See Exhibit 14 of FAG Germany's section D response dated August 28, 1998 (compare lessor's name to 18 of FAG Germany's supplemental response dated October 27, 1998). Therefore, we conclude that it is appropriate to offset FAG Germany's G&A expenses by the amortized gain on the sale of the plant.

6.D. When To Use Constructed Value

Comment: NTN argues that the Department should base normal value on CV where all contemporaneous sales of identical merchandise were disregarded because they were sold below cost. NTN argues that the Department's interpretation of *CEMEX* v. *United States,* 133 F.3d 897 (CAFC 1998) (*CEMEX*), the basis of the Department's current practice, is erroneous because it is inconsistent with the current statutory scheme. NTN contends that the statute provides that normal value be based on the foreign like product, which the statute defines as the first of several categories. NTN argues that, if there is identical merchandise, that merchandise is the foreign like product. NTN also contends that the statute directs that, if no sales made in the ordinary course of trade remain, the normal value shall be based on CV.

NTN argues that the *CEMEX* decision was for a pre-URAA case with facts different than those in the instant case. NTN claims that below-cost sales were not an issue in the CEMEX case. NTN also contends that the treatment of both sales below cost and sales outside the ordinary course of trade has changed under the revised statutory scheme.

Torrington observes that the Department addressed this issue in the prior review and should not alter its methodology.

Department's Position: The CAFC stated in *CEMEX* that ''[t]he language of the statute requires Commerce to base foreign market value on nonidentical but similar merchandise * * * rather than CV when sales of identical merchandise have been found to be outside the ordinary course of trade.'' See *CEMEX*, 133 F.3d at 904. NTN is correct that there was no cost test in *CEMEX* and *CEMEX* was under the pre-URAA statute; however, under the URAA, below-cost sales which are disregarded pursuant to section

773(b)(1) of the Act are now defined to be outside the ordinary course of trade and, therefore, not included in normal value. Therefore, consistent with *CEMEX,* when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market that were comparable to merchandise within the scope of each order and which were sold in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Only where there were no sales of foreign like product in the ordinary course of trade did we resort to CV.

6.E. Miscellaneous

Comment 1: Torrington argues that the Department should recharacterize certain expenses NSK claimed as non-operating expenses.

NSK responds that the Department characterized certain NSK expenses as non-operating expenses correctly. NSK argues that the Department verified thoroughly that NSK reported each of its claimed non-operating expenses properly. Moreover, NSK argues, any adjustment for non-operating expenses would be *de minimis* and would require the Department to offset the non-operating expenses by comparable non-operating income so as to avoid double-counting.

Department's Position: Based on our findings at verification, NSK recorded the expenses in question properly as non-operating expenses. Torrington provided no argument or explanation as to why these expenses were not non-operating expenses. Thus, we have not recharacterized these expenses as Torrington argued that we should.

Comment 2: Torrington raises four other arguments regarding NSK's section D costs. Because of their proprietary nature, the arguments are not susceptible to public summary.

Department's Position: We have summarized the arguments and addressed them in the *Final Analysis Memorandum of NSK,* dated June 15, 1999. For the reasons explained therein, we have not made any adjustments to NSK's section D costs based on these four arguments.

Comment 3: Torrington states that, based on its concerns about certain aspects of verification, the Department asked FAG Italy to explain instances where the reported cost for a model deviated significantly from the average cost for models within the product family. Because the Department found that the product code had been entered incorrectly in some of the instances, Torrington asserts that the Department should reject FAG Italy's COP/CV data. According to Torrington, the Department's verification report also shows that FAG Italy had entered incorrect cost into the data for one transaction. According to Torrington, these discoveries indicate that there are other errors in the cost data and that the Department should accept only revised COP/CV data from FAG Italy where it is satisfied that accurate product codes and costs have been reported.

FAG Italy rebuts that Torrington identified code and costs anomalies prior to verification, at which time the Department verified the corrections for any errors. FAG Italy affirms that the identified anomalies were the only inaccuracies the Department or Torrington discovered in the COP/CV data. It dismisses Torrington's conclusion that additional errors exist as untrue and a distortion of the record evidence.

Department's Position: As discussed in our CV and COP verification report, we examined at verification the records Torrington had identified. See *Constructed Value and Cost-of-Production Verification Report for FAG Italia S.p.A.,* dated February 16, 1999, at 20–21. We concluded that product codes had been entered erroneously in some instances due to input errors in source documentation. In reviewing the records, FAG Italy acknowledged that it had made an error in entering the cost for one of the observations. We examined reported costs for other models at verification and confirmed that they were reported accurately. On this basis, we do not have reason to find that the anomalous records are reflective of FAG's entire database.

We continue to be satisfied that the revised COP/CV information which FAG Italy presented is accurate and, accordingly, have used it in our final results.

7. Packing and Movement Expenses

7.A. Repacking Expenses

Comment: Torrington argues that Nachi reported labor costs incurred for repacking in the United States incorrectly as U.S. indirect selling expenses and thereby increased the CEP offset eligible for deduction from home-market prices improperly. Torrington contends that the Department should correct Nachi's error by restating U.S. repacking costs and U.S. indirect selling expenses. Torrington argues that, if this adjustment cannot be made on the basis of information on the record, the Department should use data of another Japanese respondent as facts available.

Nachi argues that repacking labor costs incurred by Nachi America are characterized correctly as an ISE. Since such costs are not identified in Nachi's books and records separately, Nachi argues that any attempt to state repacking labor costs separately would require it to make an allocation. Nachi states that, before this review, it has not allocated repacking labor costs because it would result in an infinitesimal amount. Nachi states further that the Department should determine that its repacking labor costs meet the definition of an insignificant adjustment under section 351.413 of the Department's regulations. Nachi suggests that, if the Department wishes to segregate repacking labor expense, it should use the U.S. repacking labor costs that Nachi reported in its November 20, 1998, supplemental questionnaire response.

Department's Position: We have recalculated repacking expenses, a direct selling expense, to include repacking labor costs for these final results. We also have recalculated U.S. indirect selling expenses to exclude repacking labor costs which had been included by Nachi incorrectly. We made our recalculations based on information in Nachi's November 20, 1998, supplemental questionnaire response.

7.B. Inland Freight

Comment 1: Torrington argues that questionnaire responses from FAG Italy contradict one another with regard to inland-freight expenses. Torrington asserts that FAG Italy stated in one response that it could only report freight expenses on an allocation basis and that, in another response, FAG Italy stated that freight arrangements were recorded on a transaction-specific manner, thus allowing for home-market price adjustments where the invoice did not reflect the freight arrangements properly. Torrington asserts that FAG Italy should be required either to explain the discrepancies between the two statements or to report freight expenses on a transaction-specific basis. It requests that the Department apply a partial facts-available approach in the event that FAG Italy does not undertake one of these two actions.

FAG Italy responds that Torrington has confused freight charges, which are billed to FAG Italy by freight forwarders at the end of each month for shipments from FAG Italy to its home-market customers, with freight reimbursements, which are charged to certain customers by FAG Italy on an invoice-specific basis. FAG Italy states that the freight costs it reported in the inland-freight data element are based on an allocation of freight charges invoiced to FAG Italy at the end of each month by freight companies. It states that it cannot link these charges to individual orders because the bills for these charges do not specify the individual shipments underlying the charges. FAG Italy asserts that therefore it cannot tie the monthly freight charges to the individual orders of its customers. It clarifies, however, that it maintains terms of sale with certain home-market customers which dictate that the customer reimburses FAG Italy for freight charges. FAG Italy states that, when this occurs, the reimbursements are billed to the customer on its invoice. FAG Italy asserts that, because these reimbursements are not traceable to the original freight charges, there is no inconsistency in its questionnaire responses.

Department's Position: While we prefer that respondents report freight charges on a transaction-specific basis, we are satisfied with FAG Italy's explanation that it is unable to report its freight expenses on that basis. As we stated in *AFBs 8,* 63 FR at 33340, the averaging of home-market prices, for the purpose of calculating a weighted-average home-market price, has the effect of averaging the components used to calculate those net prices, including inland freight. Therefore, the use of an allocated freight expense would not necessarily result in a distortion of home-market prices and a partial facts-available approach is not appropriate.

We are satisfied that FAG Italy reported the components of its inland-freight expenses accurately and allocated these expense reasonably for the calculation of normal value. Accordingly, we have used these expenses in our final results.

Comment 2: Torrington argues that FAG Germany and FAG Italy did not report certain freight which apparently was incurred on U.S. sales made by an affiliated party. Torrington argues that, if the reported price includes this freight charge, the Department should calculate this expense and deduct it from the price of these sales.

FAG Germany and FAG Italy contend that the reported prices do not reflect freight charges because the customer pays the freight on these sales. The respondents state further that, for some sales, they grant a freight allowance but that this allowance is reflected as a reduction in the sales price to the customer. Thus, the respondents conclude, no adjustment to their reported freight or prices is warranted.

Department's Position: FAG Germany's section C response dated August 28, 1998, at 34 makes clear that this affiliated party did not incur freight charges on sales to U.S. customers. Furthermore, FAG Germany's section C response dated August 28, 1998, at 20 makes clear that the prices charged by this affiliated party are net of any freight allowance granted to a customer. Similarly, we have reviewed FAG Italy's Section C response dated August 28, 1998, at 34 which shows that no freight charges were incurred on sales by the affiliate to U.S. customers. FAG Italy's Section B response dated August 28, 1998, at 20 clarifies that prices charged by the affiliate were net of any freight allowance. Thus, no adjustments are necessary.

Comment 3: Torrington argues that Nachi's pre-sale warehousing expense incurred after shipment from the factory should be treated as movement expense, not U.S. indirect selling expenses, citing section 351.401(e)(2) of the Department's regulations.

Nachi argues that the Department's long-standing practice has been to treat Nachi's U.S. pre-sale warehousing as a U.S. ISE.

Department's Position: The practice Nachi cites pre-dates the URAA. The SAA states that warehousing expenses should be treated as movement expenses. SAA at 823. This treatment is reflected in our regulations. For these final results we treated Nachi's warehousing expense incurred after the merchandise left the factory as a movement expense in accordance with 19 CFR 351.401(e)(2).

Comment 4: Torrington argues that the Department should ensure that amounts Barden reported as freight reimbursements in one data element have a corresponding amount billed in another element.

Barden contends that it reported both the freight reimbursements and the amount billed in the two data elements correctly and on a corresponding basis.

Department's Position: We have compared the billing amounts Barden reported and find that the information corresponds correctly.

7.C. Ocean and Air Freight

Comment 1: Torrington asserts that FAG Italy incurred air-freight expenses as the result of specific existing orders and that, as a result, it should not be permitted to aggregate its ocean-freight and air-freight expenses. Torrington states that other respondents in the reviews were able to report the two expenses separately. Asserting that air freight is generally substantially more expensive than ocean freight, it argues that FAG Italy should be required to identify the sales which were subject to air freight and apply an air-freight rate to these sales.

FAG Italy responds that the Department's past practice and decisions, which permitted the aggregation of ocean and air freight where a respondent was unable to identify freight charges on a transaction-specific basis and the record evidence did not show aggregation to be distortive, is the correct approach. It asserts that Torrington misinterprets a statement by FAG Italy in reaching the conclusion that FAG Italy was, and is, able to relate an air or sea shipment to a specific order. On the contrary, FAG Italy contends, its business practices do not permit traceable linkage between a U.S. customer's order, the air or sea shipment, inventoried bearings, and the ultimate resale. FAG Italy states that whether another respondent can trace its specific transactions to a mode of shipping is not a relevant consideration.

Department's Position: We have found that it is generally not feasible for respondents to report air and ocean freight on a transaction-specific basis in these proceedings. See *AFBs 8,* 63 FR at 33340, and *AFBs 7,* 62 FR at 54081. Where respondents were unable to report ocean and air freight separately, we have accepted aggregated international freight data. See *AFBs 6,* 62 FR at 2121; see also *The Torrington Company* v. *United States,* 965 F. Supp. 40 (CIT 1997) (*Torrington II*) (affirming the Department's methodology for accepting combined ocean and air freight where a respondent could not report the two expenses separately). Furthermore, section 351.401(g) of our regulations provides that we may consider allocated expenses and price adjustments when transaction-specific reporting is not feasible, provided we are satisfied that the allocation method used does not cause inaccuracies or distortions.

At 29 of its section C response, FAG Italy explained that it could not tie resales of merchandise in the United States to its shipment of that merchandise. FAG Italy stated that it delivered merchandise to the United States by both air and freight and that, once delivered, the merchandise was entered into the inventories of importing companies. From that point, the merchandise was resold to unaffiliated U.S. customers. FAG Italy could not trace its shipment costs to this resale. Because the use of air freight was not limited to particular models or customers, allocated reporting of the air-freight and ocean-freight expenses is not unreasonably distorted in this case. Therefore, we have accepted FAG Italy's data concerning these expenses.

Comment 2: Torrington argues that the Department should not accept Koyo's continued failure to account for air-freight expenses for shipments to the United States separately when direct links between the sale and the air shipment exist. Torrington argues further that, given the relative cost of air freight versus ocean freight, the Department should apply an appropriate facts-available adjustment to increase the reported freight costs of all U.S. transactions.

Koyo states that Torrington admits that the Department does not require companies to report their air and ocean freight separately when there is an absence of a direct link between the air shipment and the resale to the unaffiliated U.S. customer. Koyo contends that it is because Koyo cannot tie its air-freight shipments to specific customer invoices that the Department does not require Koyo to segregate its air-freight expenses. Finally, Koyo argues that Torrington provides no new evidence that Koyo can now tie those shipments to specific invoices.

Department's Position: We find no new information on the record that would indicate that Koyo has changed the manner in which it records these expenses in its accounting system and is now able to determine a direct link between a sale and an air shipment. We have discussed this issue extensively in previous reviews. See *AFBs 4,* 60 FR at 10942, *AFBs 5,* 61 FR at 66510, *AFBs 6,* 62 FR at 2121, and *AFBs 8,* 63 FR at 33340. We have found that it is generally not feasible for respondents to report air and ocean freight on a transaction-specific basis in these proceedings. Therefore, we have accepted Koyo's reporting of these movement expenses for the final results.

Comment 3: Torrington contends that SKF Germany, SKF Italy, and SKF Sweden should report their air-freight and ocean-freight expenses for EP and CEP sales separately. Torrington posits that it is general knowledge that air freight is substantially more expensive than ocean freight. Torrington asserts that, given that this is the ninth administrative review of these orders, the respondents have had ample time to modify their reporting systems. Torrington also argues that the respondents' alleged inconvenience in segregating these expenses is not a valid excuse, citing *Torrington II.* The petitioner states that other respondents participating in these administrative reviews, including SKF Germany, have identified separately those sales that were shipped by air freight and calculated separate factors for such sales. Torrington argues further that, if these respondents do not report such expenses separately, the Department should use some form of facts available, suggesting that it rely upon the highest air-freight rate reported by any other respondent participating in the current AFB reviews.

The respondents state that their reporting of combined air-freight and ocean-freight expenses is factually and legally correct, and they contend that it is consistent with the manner in which such expenses have been reported in all prior reviews and with the Department's determinations in those reviews. The respondents state that the reporting capabilities of other respondents is not a measure of their own reporting capabilities. SKF Germany indicates that it did not report its air-freight and ocean-freight factors separately even though it identified those transactions for which the subject merchandise was transported by air.

The respondents submit that it is not an issue of inconvenience to report such expenses separately but, rather, as explained in their responses, they do not incur the international freight expenses on a transaction-specific basis. SKF Sweden points out further that, as stated in its responses, shipments from its European consolidation point to SKF USA are not segregated by country of manufacture and, thus, the expenses at issue relate to products shipped from Italy, Germany, France, and Sweden. Moreover, the respondents contend that they receive cumulated bills which are independent of the invoices they issued to their customers and their pricing is unrelated to the manner in which goods are shipped internationally.

The SKF respondents also assert that they can identify *post-hoc* whether the merchandise sold out of SKF USA's inventory was shipped via air or ocean freight but argue that *post-hoc* linkage does not affect the pricing of merchandise for any given transaction. SKF Sweden contends further that, before the Department can make a determination of whether a respondent is uncooperative and, thus, resort to adverse facts available, the Department is required to request information at issue from a respondent in a supplemental questionnaire, citing *Olympic Adhesives, Inc.* v. *United States,* 899 F. 2d 1565, 1572–75 (CAFC 1990). SKF Sweden contends that the Department is precluded from resorting to facts available because the issue of reporting air-freight and ocean-freight expenses separately was not raised in either of the two supplemental questionnaires it received from the Department.

Department's Position: With respect to SKF Italy and SKF Sweden, we were not informed until the submission of the respondents' rebuttal briefs that these firms were capable of segregating air freight for particular U.S. resales in the United States. Since we did not request in our questionnaires and, thus, did not receive this information in questionnaire responses for these reviews, we have used the combined freight charges of those firms for these final results. For other respondents which were unable to report ocean and air freight separately, we have accepted aggregated international freight data. See *AFBs 8,* 63 FR at 33340; see also *Torrington II.* Furthermore, section 351.401(g) of our regulations provides that we may consider allocated expenses and price adjustments when transaction-specific reporting is not feasible, provided we are satisfied that the allocation method does not cause inaccuracies or distortions. In addition, because the use of air freight is not limited to particular models or customers, allocated reporting of freight expenses is not unreasonably distortive in this case. Because we determine that these respondents acted to the best of their ability, it would be improper to make adverse inferences about their reported data by applying facts available simply because their record-keeping system does not record the data on a transaction-specific basis.

Our practice in prior AFB reviews has been to accept aggregated ocean-freight and air-freight expenses in cases where the respondent indicates that it cannot report such expenses separately. SKF Germany demonstrated in response to our supplemental questionnaire, however, that it could identify separately the relevant sales transactions for which it incurred air-freight expenses. While SKF Germany identified the relevant transactions in its supplemental questionnaire response, it did not provide the actual air-freight expenses specific to these transactions. However, it did provide calculations yielding separate air-freight and ocean-freight factors. Because we did not have transaction-specific air-freight expenses, we used these factors and other information reported in its supplemental questionnaire response to determine a separate amount for air and ocean freight for purposes of our margin calculation. See the Final Analysis Memorandum for SKF Germany for a complete discussion of the proprietary data we used in the air-freight and ocean-freight calculations for these final results.

Comment 4: Torrington argues that the Department should not permit Barden to aggregate air and ocean freight but should require that Barden report air freight separately for those U.S. sales which were shipped by air, particularly those shipped directly to the U.S. customer. Torrington argues that, in such instances, Barden UK should know whether the shipment was by ocean or air. Torrington argues that the Department should require Barden to identify those sales shipped by air and apply the air-freight rate to those sales.

Barden argues that it did not incur ocean-freight expenses on bearing shipments made during this review period and all expenses reported as ''air and ocean freight'' are indeed air-freight expenses.

Department's Position: Barden reported, at 32 of its November 24, 1998, supplemental questionnaire response, that it shipped all bearings via air freight. As Barden reported in its August 28, 1998, Section C questionnaire response, the ocean-freight data element includes all freight charges from Barden UK to Barden US, *i.e.,* air freight. Since Barden does not incur ocean freight, the air-freight rate was applied to all sales.

7.D. Inventory Carrying Costs

Comment 1: Torrington argues that the Department should deduct inventory carrying costs for the time that merchandise was in transit from the exporting country to the United States from CEP.

With regard to SKF Italy and SKF Sweden, Torrington argues that amended section 772(d) of the Act provides for such a deduction under subsection (d)(1)(B) as a credit expense or, alternatively, under subsection (d)(1)(D) as a selling expense. Torrington asserts that the SAA at 823 provides broad categories under which the deduction can be undertaken, that the SAA is silent as to a prohibition of such a deduction, and that 19 CFR 351.402(b) does not preclude the deduction. It asserts that inventory carrying costs should be deducted pursuant to this regulation, as they are expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, regardless of where or when the costs are paid, citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 30326, 30352 (June 14, 1996) (*Pasta Italy LTFV*) (where the Department deducted inventory carrying costs for time in transit after finding that the costs were attributable to U.S. economic activity because virtually all the subject merchandise was sold in the United States), and *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey,* 63 FR 68429 (December 11, 1998) (*Pasta Turkey Review*) (where a deduction for inventory carrying costs was permitted for time that the merchandise was held in U.S. Customs). Torrington argues that the Department should follow the approach taken in the above-referenced *Pasta* notices because, in these AFB reviews, the inventory carrying costs were borne on the books of the U.S. affiliate and because the subject merchandise would not have been placed in transit to the United States if not intended for that market. Torrington asserts that these circumstances establish the inventory carrying costs for time in transit are attributable to U.S. economic activity. Torrington also argues that, in the event the Department retains its current position, SKF Italy and SKF Sweden have not demonstrated that the costs were not associated with commercial activities in the United States and did not relate to the resale to the unaffiliated customer which, according to Torrington, is an affirmative burden on the respondent. Finally, Torrington asserts that, at minimum, the Department should deduct inventory carrying costs for the time that merchandise was held in U.S. Customs or otherwise remained at the port of entry, pursuant to its finding in *Pasta Turkey Review,* 63 FR at 68432.

With regard to SKF Germany, INA, and FAG Germany, Torrington argues that the Department's position in *AFBs 8* was based in part on the finding that inventory carrying costs in transit reflected part of the interest expense incurred by the home-market company when it extended credit on the sale to the U.S. affiliate. It requests that the Department reconsider its AFBs 8 rationale in light of *Pasta Italy LTFV,* 61 FR at 30326. Torrington argues that, with respect to the German respondents, SKF France, Barden UK, NSK-RHP, and SNR France, regardless of credit arrangements between the exporting company and the U.S. affiliate, the cost of carrying inventory is borne by the company owning the inventory. It asserts that, because the costs are listed on the books of the U.S. affiliate, the affiliate has assumed responsibility for the merchandise. Torrington argues that, moreover, the business purpose of these companies is to sell bearings in the United States. Thus, it concludes that inventory carrying costs relate to commercial activity in the United States and should be deducted from CEP.

Torrington argues similarly for a deduction of in-transit inventory carrying costs for NTN. Torrington asserts that, through transference of ownership of the inventory to a U.S. affiliate who will resell the goods in the United States, inventory carrying costs for time in transit have been incurred in connection with commercial activities in the United States.

Torrington contends, with regard to SKF Germany, that the inventory carrying costs should be deducted from CEP because these expenses appear on the books of SKF USA and are associated with U.S. commercial activity.

SKF Italy, SKF Sweden, and SKF Germany rebut that there is no legal or factual support for Torrington's position and that, therefore as in prior reviews, the inventory carrying costs should not be deducted from CEP. They assert that the Department has interpreted the provisions of the law properly. The companies argue that reliance upon *Pasta Italy LTFV* is misplaced since, unlike the pasta manufacturer, they do not sell their products exclusively in the United States. They distinguish *Pasta Turkey Review* because there the exporting company had not calculated any U.S. inventory carrying costs, having alleged that the importer did not inventory the merchandise and thus had not incurred any such costs. According to the respondents, in that review the Department found that U.S. inventory carrying costs had been incurred by the importer because of a 16-day delay of the merchandise at U.S. Customs. The respondents contrast this situation to their own, noting that these are not issues in the instant administrative reviews. The respondents cite several recent determinations by the Department, including *Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review,* 63 FR 67855 (December 9, 1998), which support their position that inventory carrying costs incurred in transit are not associated with commercial activity in the United States and do not relate to resale of the merchandise to the U.S. unaffiliated customer.

INA responds that, as determined in *AFBs 8,* inventory carrying costs in transit are deductible neither as a movement expense under section 772(c) of the Act, since they are not associated with bringing merchandise to the United States, or as a CEP selling expense under section 772(d) of the Act. INA cites to *Color Picture Tubes from Japan; Final Results of Antidumping*

Administrative Review, 62 FR 34201, 34207 (June 25, 1997), in which the Department declined to apply its decision of *Pasta Italy LTFV* on two grounds. According to INA, the first reason was that in-transit inventory carrying costs were incurred regardless of the final destination of the merchandise; the second reason was that the in-transit costs were not considered to be associated with U.S. commercial activity but rather were associated with the sale by the foreign producer to its U.S. affiliate. INA asserts that these same considerations apply in the current reviews. It rebuts Torrington's argument that the destination of the bearings relates inventory carrying costs to U.S. commercial activity by asserting that costs in transit are not related to such activity and do not relate to the resale of the merchandise to an unaffiliated purchaser. It responds to Torrington's argument regarding ownership of the merchandise by noting that the costs are incurred by the party incurring an imputed interest cost, a cost that is not associated with ownership and which does relate to the sale by the foreign producer to the U.S. affiliate.

FAG Germany asserts that Torrington has presented no new argument in support of its request for a deduction. It notes that AFBs which the U.S. affiliate imports from FAG Germany are shipped on a Delivered-Duty-Unpaid basis, which means that the exporter bears all costs and risks in delivering the merchandise to a named place in the country of importation. It asserts that, therefore, in-transit inventory carrying costs are not associated with U.S. commercial activity.

SKF France agrees with the Department's decision regarding the deduction. SKF France argues that the fact that SKF USA paid the costs is irrelevant; it asserts that the relevant consideration is where the economic activity associated with the expense has occurred. It cites recent determinations of the Department which support the position that inventory carrying costs in transit are not associated with U.S. economic activity and do not relate to resale of the merchandise to the unaffiliated customer.

Barden UK rebuts that the SAA at 823 states that CEP can only be reduced by amounts associated with economic activities occurring in the United States. It also cites to the *Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7308, 7331 (February 27, 1996), in which the Department set forth its intent not to deduct a foreign seller's expenses associated with selling to the affiliated reseller in the United States under section 772(d) of the Act. Barden UK asserts that this is the correct approach and asks that the Department not reconsider its methodology.

NSK–RHP responds that the Department should reject Torrington's argument because the Department already deducts inventory carrying costs incurred in the United States from CEP. NSK–RHP notes that, moreover, the Department has concluded consistently that inventory carrying costs incurred for the time merchandise was in transit should not be deducted from CEP, as decided in *AFBs 8.*

SNR France notes that, in *AFBs 8,* the Department found that deducting inventory carrying costs for time in transit would be contrary to the SAA and its own regulations. It asserts that Torrington offers no new justification for a departure from prior practice and that, accordingly, Torrington's argument should be rejected.

NTN rebuts that section 351.402(b) of the Department's regulation and the SAA at 823 prohibit the deduction; it asserts that the in-transit inventory carrying costs are not associated with commercial activities in the United States that relate to the unaffiliated purchaser, a position that the Department took in *AFBs 8.* NTN argues that, because the facts in the current reviews are consistent with those in the previous reviews and those in other cases in which the Department has declined to make the deduction, it should continue its practice.

Department's Position: In *AFBs 8,* 63 FR at 33344, we concluded that both the SAA at 823 and section 772(d) of the Act permit us to deduct from CEP only those expenses which were associated with commercial activity in the United States and which related to the resale to an unaffiliated purchaser. We concluded that in-transit inventory carrying costs did not meet these criteria but rather reflected the interest expense of the exporting company. As such, we found the costs to be related solely to the sale to the affiliated importer in the United States. Moreover, we noted that section 351.402 of our regulations directs us not to deduct from CEP starting price any expenses related to the sale to the affiliate.

The Department clarified its position further in *Stainless Steel Butt-Weld Pipe Fittings from Taiwan,* 63 FR at 67856. We stated there that, according to the SAA at 823, CEP should be calculated to be, as closely as possible, a price which corresponds to a price between non-affiliated exporters and importers. This approach is codified at section 351.402(b) of the Department's regulations, which provides that the Department will make adjustments to CEP under section 772(d) of the Act for expenses associated with commercial activity in the United States that relate to the sale to an unaffiliated purchaser, no matter where it was incurred. Therefore, in *Stainless Steel Butt-Weld Pipe Fittings from Taiwan,* we concluded that, consistent with section 772(d) of the Act and the SAA, we could deduct only those expenses representing activities undertaken to make the sale to the unaffiliated customer in the United States and not indirect expenses incurred in selling to the affiliated U.S. importer.

We maintain that in-transit inventory carrying costs are indirect selling expenses relating to the sale to the affiliate and, consequently, are not associated with U.S. economic activity or related to the resale of the merchandise. The issue of whether the exporting company or the affiliate holds title to the merchandise is irrelevant in light of this finding. Likewise, it does not matter whether the expenses are listed on the accounts of the exporting company or the affiliate. Our decision in *Pasta Italy LTFV*, 61 FR at 30352, that the in-transit costs should be deducted was based on the fact that the subject merchandise was produced solely for the U.S. market. Here, there is no evidence that any of the bearings under review were produced solely for the U.S. market. Thus, the finding in *Pasta Italy LTFV* is not applicable here. Torrington's reliance on *Pasta Turkey Review* is misplaced because, contrary to that case, the respondents' inventory carrying costs do not reflect costs for a period of time when the merchandise was being stored or held at U.S. Customs.

For all of these reasons, we have not deducted inventory carrying costs for time in transit from CEP.

Comment 2: Torrington argues that U.S. interest rates should be applied in the calculation of in-transit and U.S. inventory carrying costs for NTN and NSK, since U.S. dollars are the functional currency for the U.S. affiliates. It notes that this approach conforms to the fundamental scheme of the amended antidumping law; it asserts that another approach would undermine the objective, when calculating CEP, of arriving at arm's-length, ex-factory prices that are not influenced by affiliations. It asserts that, in the attempt to construct arm's-length ex-factory prices, the Department should not assume that the costs are being financed by the exporting company at the most favorable rates that it can obtain.

NTN argues that Torrington ignores regulatory and administrative authority concerning the calculation of inventory carrying costs. It asserts that the use of the yen borrowing rate for calculation of inventory carrying costs in the preliminary results was appropriate and that the facts of the current reviews support the use of the yen. It observes that this issue was settled by the CIT in *Timken Co.* v. *United States*, 858 F. Supp. 206 (CIT 1994).

NSK responds that Torrington's argument has been rejected for years and that the law is settled on the point of the proper interest rate to be applied.

Department's Position: Normally, the Department calculates U.S. inventory carrying costs using the U.S. interest rate because the affiliate bears the costs of carrying the merchandise. However, where the payment terms that an exporting company extends to its affiliate and the time that the merchandise remains in the affiliate's inventory, indicate that the exporting company bears the cost of carrying the merchandise for a portion of the time that the merchandise is in inventory, then the exporting company's short-term interest rate will be used to calculate that portion of the inventory carrying costs. As noted by NTN, this practice was sustained by the CIT in *Timken*, 858 F. Supp. at 212 (citing *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review*, 56 FR 65228, 65236 (Dec. 16, 1991)).

Both NTN and NSK have demonstrated that they extended their financing terms to their affiliates through the time in transit and the time that merchandise remained in inventory in the United States. Therefore, we have applied the yen borrowing rate to the calculation of in-transit and U.S. inventory carrying costs.

Comment 3: Torrington argues that the Department should restate Nachi's U.S. inventory carrying costs. Nachi does not make a rebuttal.

Department's Position: We are satisfied from information on the record that Nachi calculated its U.S. inventory carrying costs correctly. For a more detailed explanation of this expense, see page 4 of the Department's Analysis Memorandum for Nachi, dated June 16, 1999 (which provides, *inter alia*, the Department's position on Torrington's proprietary argument).

8. Sales to Affiliated Parties

Comment: Torrington asserts that the chairman of SKF Germany's parent company, AB SKF, also chairs six other companies, including Investor AB, which is the largest single shareholder of AB SKF. Torrington states further that Investor AB also holds shares in seven companies and that SKF Germany made home-market sales to one of those seven companies during the POR. Torrington asserts that the Department should apply the affiliated-party test to determine whether sales to this customer are in fact at arm's-length prices.

SKF Germany contends that Investor AB's share of the specified customer is not large enough to be considered a controlling interest. SKF Germany claims that it does not own any shares in the specified company and the company is not a shareholder in SKF Germany. SKF Germany claims further that the entities do not share management teams or have supply, sales, marketing, or financial agreements with each other. SKF Germany believes that all of these elements confirm an absence of common control.

Department's Position: SKF Germany and the specified customer are not affiliated parties and, therefore, have not applied our arm's-length test to transactions between the two entities. Section 771(33)(E) of the Act states that ''[a]ny person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization'' shall be considered to be ''affiliated''. Record evidence shows that SKF Germany does not own any shares of the customer concerned and that the customer in turn is not a shareholder of SKF Germany. Section 771(33)(F) of the Act states that ''[t]wo or more persons directly or indirectly * * * controlled by * * * any person'' shall also be considered to be ''affiliated''. However, there is no evidence indicating the presence of management control of any kind between SKF Germany and the specified customer. Since there is no evidence of affiliation in the context of the remaining provisions of section 771(33) of the Act, we conclude that SKF Germany and the specified customer are not affiliated parties and have not applied our arm's-length test to transactions between the two entities.

9. Samples, Prototypes and Sales Outside the Ordinary Course of Trade

Comment 1: NTN argues that the Department should exclude its reported sales made outside the ordinary course of trade from the calculation of normal value and CV profit. NTN contends that the purpose of the ordinary-course-of-trade provision of the statute is to prevent dumping margins from being based on sales which are not representative of the home market. NTN claims that the Department should regard all of its sales which have abnormally high profits as outside the ordinary course of trade. Citing *CEMEX*, NTN contends that the Department has regarded sales as outside the ordinary course of trade in other cases because of significant differences in profit levels.

NTN also argues that the Department should exclude its claimed sample sales from its normal-value calculation because they are outside the ordinary course of trade. *Citing Granular Polytetrafluoroethylene Resin from Japan; Preliminary Results of Antidumping Administrative Review*, 60 FR 5622 (January 30, 1995), and *Notice of Final Determinations of Sales at Less than Fair Value: Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Cut-to-Length Carbon Steel Plate from France*, 58 FR 73125, 73126 (July 9, 1993), NTN claims that the Department has regarded sample sales as outside the ordinary course of trade in other cases.

Torrington argues that NTN has not justified its claim that these sales should be regarded as outside the ordinary course of trade. Torrington contends that NTN did not provide the information the Department requested with regard to its claim and that the only information NTN did provide was the profit amounts for its sales. Torrington observes that the Department has rejected identical claims made by NTN in prior AFB reviews.

Department's Position: Our practice is to exclude home-market sales transactions from the margin calculation as outside the ordinary course of trade based on all the circumstances particular to the sales in question. See *Murata Mfg. Co. v. United States*, 820 F. Supp. 603, 607 (CIT 1993). This practice has been codified in section 351.102 of the Department's regulations, which states:

> [t]he Secretary may consider sales or transactions to be outside the ordinary course of trade if the Secretary determines, based on an evaluation of all of the circumstances particular to the sales in question, that such sales or transactions have characteristics that are extraordinary for the market in question. Examples of sales that the Secretary *might* consider as being outside the ordinary course of trade are sales or transactions involving off-quality merchandise or merchandise produced according to unusual product specifications, merchandise sold at aberrational prices or with abnormally high profits, merchandise sold pursuant to unusual terms of sale, or merchandise sold to an affiliated party at a non-arm's-length price.

(Emphasis added.)

In these reviews, NTN provided no evidence, other than the allegedly high profits of some sales, to suggest that any of these sales, whether ''high profit'' or sample sales, are outside the ordinary course of trade. The simple fact of high profits, standing alone, is not sufficient for us to determine that a sale is outside the ordinary course of trade. See *AFBs 8*, 63 FR at 33344: ''the presence of profits higher than those of numerous other sales does not necessarily place the sales outside the ordinary course of trade. In order to determine that a sale is outside the ordinary course of trade due to abnormally high profits, there must be unique and unusual characteristics related to the sale in question which make it unrepresentative of the home market.'' Thus, it would only be appropriate to exclude these sales from our normal-value calculation if there were circumstances surrounding these sales which would lead us to conclude that they were, in fact, made outside the ordinary course of trade.

NTN's citation to *CEMEX* is inapposite to this situation. In *CEMEX*, the profitability of the sales in question was merely one of the factors we considered in our determination that those sales were made outside the ordinary course of trade. In addition to profits, we found the sales in question were sales of ''specialty [products] that were sold to a niche market,'' that these ''sales represent[ed] a minuscule percentage of [the respondent's] total sales of cement,'' that ''the shipping arrangements for home market sales of Types II and V cements were not ordinary,'' and that the record ''indicated that the home market sales of Types II and V cements were of a promotional nature.'' See *CEMEX*, 133 F.3d at 901. Thus, it was the totality of circumstances, rather than the relative profitability alone, which, in *CEMEX*, led us to conclude that the sales were made outside the ordinary course of trade. In this case, the level of profitability is the only indicator that the sales might have been made outside the ordinary course of trade.

Furthermore, NTN provided no evidence which demonstrated that the profit amounts experienced on its claimed outside-the-ordinary-course-of-trade sales are particularly, much less abnormally, high. NTN has selected an arbitrary profit margin which it defines as ''high,'' but it provides no evidence or analysis which suggests that the profit margin it chose is in any way unusual. To the contrary, there are enough of these claimed ''high profit'' sales in NTN's home-market database that it is apparent that these sales are not unusual but, rather, occur typically within NTN's normal course of business.

With regard to NTN's claimed non-zero-priced sample sales (we excluded all zero-priced sales because the record suggests that NTN did not receive consideration for these sales), NTN provided no evidence to support its contention that these sales were made outside the ordinary course of trade. The mere labeling of a sale as a sample, absent any other evidence, is an insufficient basis on which to find the sale outside the ordinary course of trade.

Finally, while we agree with NTN as to the purpose of the ordinary-course-of-trade provision of the statute, the burden is on respondents to demonstrate that the sales in question were made outside the ordinary course of trade. NTN did not demonstrate this with regard to any of its claimed outside-the-ordinary-course-of-trade sales. Accordingly, we have not excluded NTN's ''high-profit'' sales or sample sales from our analysis.

Comment 2: Torrington argues that, with respect to SKF Sweden and SKF Italy (collectively SKF), the Department should include U.S. sample sales in the margin calculation. Torrington comments that exclusion of sample sales is not automatic, citing *NSK Ltd.* v. *United States*, 115 F.3d 965 (CAFC 1997), and asserts that SKF did not provide all of the information the Department requested. For instance, Torrington observes, SKF did not provide price and quantity comparisons and described only in vague terms the ultimate disposition of the sample sales.

SKF argues that it provided detailed responses to the Department's questions concerning sample and prototype sales. SKF argues that, with regard to Torrington's assertion that it discussed the ultimate disposition of the sample sales vaguely, SKF provided as complete an answer as it could. SKF contends that, while Torrington desires more detailed information on the record, it responded fully to the Department's questions and, accordingly, the Department should continue to exclude the U.S. sample and prototype sales from the margin calculation.

Department's Position: Contrary to Torrington's assertions, we find that there is sufficient information provided in SKF Italy's and SKF Sweden's responses for us to make a determination as to whether the respondents received consideration for these sales. SKF Italy and SKF Sweden described how orders for sample or prototype sales were communicated, identified the documents available to demonstrate that the sales in question were sample or prototype sales, explained the ultimate disposition of the bearings, indicated whether such bearings were tested and destroyed during trial application, and, to the extent possible, contrasted sample or prototype sales prices and quantities with the prices and quantities of normal-priced sales. Based on this information, we determined that no consideration was provided for their reported U.S. zero-priced sample and prototype sales. Therefore, we did not calculate a margin on U.S. sales which SKF Italy and SKF Sweden designated as zero-priced samples and prototypes.

10. Constructed Export Price Profit

Comment 1: NTN argues that the Department should calculate CEP profit on a level-of-trade-specific basis. NTN asserts that prices differed significantly between levels of trade and contends that, to account fully for price differences between levels of trade, the Department must consider profit levels. NTN claims that there is a clear statutory preference for the Department to calculate CEP profit on the narrowest basis.

Torrington observes that the Department has rejected NTN's argument in prior reviews and that NTN neither acknowledges the Department's prior decisions nor discusses why the Department should alter its decision.

Department's Position: It is not our practice to calculate CEP profit for different levels of trade. See, *e.g., AFBs* 7, 62 FR at 54072, and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2570, 2583 (January 15, 1998) (*TRBs*).

We believe that NTN's reliance on the term ''narrowest'' as used in sections 772(f)(2)(c)(ii) and (iii) of the Act is misplaced. While the statute uses the term ''narrowest'' in describing the second and third alternative methods, methods in which CEP profit is calculated based on financial reports, for NTN we used the first alternative method since the company provided the necessary data (*i.e.*, U.S. and home-market sales information as well as CV and COP data for the subject merchandise and the foreign like product, respectively). This is consistent with the instructions set forth in section 772(f)(2)(C) of the Act and the SAA at 824-825. Moreover, regardless of the basis for the CEP-profit calculation, neither the statute nor the SAA requires us to calculate CEP profit on a basis more specific than subject merchandise and foreign like product. See *Toyota Motor Sales, USA* v. *United States,* Court No. 97–0300415, Slip Op. 98–95 (CIT July 2, 1998) (*Toyota*). Thus, we have not adopted NTN's suggestion.

Comment 2: NTN argues that the Department should exclude EP sales from its CEP-profit calculation. NTN contends that section 772(f)(2)(C)(i) of the Act directs the Department to calculate CEP profit based on ''[t]he expenses incurred with respect to the subject merchandise sold in the United States and the foreign like product sold in the exporting country if such expenses were requested by the administering authority for the purposes of establishing normal value and constructed export price.'' NTN argues that, because this section refers specifically to CEP sales and not EP sales, it precludes the Department from including EP sales in the CEP-profit calculation.

Torrington contends that the Department's approach in these reviews is consistent with Policy Bulletin 97.1 and that the Department rejected NTN's argument in a prior review.

Department's Position: It is our practice to include EP sales in the calculation of CEP profit. See, *e.g., AFBs 8,* 63 FR at 33345, *TRBs,* 63 FR at 2570, and *Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 62 FR 53295 (October 14, 1997). In addition, our analysis in these reviews is consistent with Policy Bulletin 97.1 of September 4, 1997.

The basis for total actual profit is the same as the basis for total expenses under section 772(f)(2)(C) of the Act. The first alternative under this section states that, for purposes of determining profit, the term ''total expenses'' refers to all expenses incurred with respect to the subject merchandise sold in the United States (as well as the foreign like product sold in the exporting country). Thus, where the respondent makes both EP and CEP sales to the United States, sales of the subject merchandise would encompass all such transactions. Therefore, because NTN had EP sales, we have included these sales in the calculation of CEP profit.

Comment 3: NPBS, NSK, and NSK–RHP argue that the Department erred in deducting U.S. repacking expenses under section 772(d)(1) of the Act and including such expenses in the pool of selling expenses for which it then calculated CEP profit. NPBS contends that section 772(d)(3) of the Act does not provide for profit to be attributed to repacking expenses because the statute limits the application of profit to selling expenses and further-manufacturing costs and, according to NPBS, repacking expenses are neither. NSK and NSK–RHP argue that the Department should treat U.S. repacking expenses as movement expenses deductible from U.S. price under section 772(c)(2)(A) of the Act. The respondents contend that section 772(c)(2)(A) of the Act does not preclude the Department from including U.S. repacking just because the expenses may relate directly to particular sales. As support, the respondents point out the direct nature of certain movement expenses which the Department deducts from U.S. price in accordance with section 772(c)(2)(A) of the Act. NSK and NSK–RHP also assert that U.S. repacking does not qualify as a deductible expense under section 772(d)(1)(B) of the Act because the selling expenses included under this part of the statute do not involve bringing the goods from the exporting country to the U.S. unaffiliated customer. The respondents also assert that, unlike the deductible selling expenses under section 772(d)(1)(B) of the Act, repacking expenses do not entice a customer to purchase a product. NSK and NSK–RHP request that, for the final results, the Department reclassify U.S. repacking as a movement expense and exclude it from the selling expenses it uses to calculate CEP profit.

Torrington argues that the Department should not treat U.S. repacking expenses as a movement expense. Citing *AFBs 8* at 33338, Torrington asserts that the Department has rejected the respondents' argument in prior reviews and that the Department's position is valid.

Department's Position: Section 772(c)(2)(A) of the Act covers ''transportation and other expenses, including warehousing expenses, incurred in bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States.'' See SAA at 824. As we stated in *AFBs 8,* 63 FR at 33339, we do not view repacking expenses as movement expenses. The repacking of subject merchandise in the United States bears no relationship to moving the merchandise from one point to another. The fact that repacking is not necessary to move merchandise is borne out by the fact that the merchandise was moved from the exporting country to the United States prior to repacking. We regard repacking expense as a direct selling expense because the company incurred the expense on individual products in order to sell the merchandise to the unaffiliated customer in the United States. We deducted this repacking expense pursuant to section 772(d)(1)(B) of the Act, which directs us to reduce CEP by ''expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees, and warranties.'' Furthermore, because these expenses are direct selling expenses, we attribute profit to them pursuant to section 772(d)(3) of the Act by including them in the calculation of total CEP selling expenses.

Comment 4: INA argues that the Department erred by calculating the CEP-profit rate on a class-or-kind basis rather than a product-specific basis. To support this argument, INA contends that section 772(d) of the Act requires the Department to calculate and apply all CEP deductions on sales of subject merchandise on a transaction-specific basis. In addition, INA asserts that the use of the term ''subject merchandise'' in section 772(f)(2)(C)(i) of the Act was intended to mean the specific product in the particular transaction for which the Department is calculating CEP.

Torrington contends that the Department has calculated the CEP-profit rate correctly. Torrington notes that the Department rejected INA's arguments for a product-specific CEP-profit rate calculation in *AFBs 7.* Citing *AFBs 7,* 62 FR at 54071, Torrington argues that the Department stated correctly that INA's proposed methodology for calculating a product-specific CEP-profit rate is not required by the statute, would complicate the margin calculation, would not increase accuracy, and would invite manipulation.

Department's Position: Section 772(d)(3) of the Act requires that we adjust CEP for an amount of profit allocable to U.S. sales, and our practice is to base this calculated profit on revenues and expenses associated with total sales of subject merchandise (both in the home market and the United States). As discussed in *AFBs 6,* 61 FR at 2125, *AFBs 7,* 62 FR at 54072, and our response to Comment 1 of this section, we find that neither the statute nor the SAA requires us to calculate CEP profit on a basis that is more specific than the one applied currently. See also *Toyota* (upholding our decision to calculate total expenses and total actual profit for all subject merchandise sold in the United States and all foreign like products sold in the home market rather than segregating certain products when performing the CEP-profit calculation). Consistent with the rationale in these cases, we have not altered our CEP-profit calculation methodology.

Comment 5: INA argues that the Department erred by excluding imputed expenses (credit and inventory carrying costs) from the calculation of the ratio that it applied to total U.S. selling expenses (including imputed expenses) to determine CEP profit. INA argues that excluding the imputed interest expenses from the calculation of the ratio and then applying the ratio to a value that includes imputed interest expenses results in an unlawful double deduction of imputed expenses in determining CEP (once as an expense and once as a component of profit). INA cites *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review,* 63 FR 39071 (July 21, 1998), as an example of a situation where the Department recognized the necessity for consistency in calculating and applying a profit rate. INA asserts that the Department's exclusion of the imputed expenses from the calculation of the CEP-profit ratio is at odds with the statute since imputed expenses are recognized as an expense under section 772(f) of the Act, which establishes the rules for determining profit.

Torrington contends that the Department calculated CEP profit correctly and refers to the Department's position on this topic in *AFBs 7,* 62 FR at 54072. The petitioner also asserts that by including imputed expenses in the U.S. expenses the Department recognizes that related parties may shift expenses among them, thus affecting the accuracy of the calculation. The petitioner asserts that such shifting is not a concern when calculating the total expenses mentioned under section 772(f)(2)(C) of the Act.

Department's Position: It is our practice to exclude imputed selling expenses in calculating the total actual profit for sales of the subject merchandise and the foreign like product. See, *e.g., Notice of Final Results of Antidumping Duty Administrative Review; Canned Pineapple Fruit From Thailand,* 63 FR 7395 (February 13, 1998). In the preamble to our *Final Rule* we address INA's issue directly. In response to a comment that we should include imputed expenses in the total selling expenses used to derive total profit to avoid double-counting, we stated, ''(w)e have not adopted this suggestion, because the Department does not take imputed expenses into account in calculating cost. Moreover, normal accounting principles permit the deduction of only actual booked expenses, not imputed expenses, in calculating profit.'' See the preamble to our new regulations at section 351.402 (*Final Rule,* 62 FR at 27354).

In Policy Bulletin 97.1 of September 4, 1997, which describes our methodology for calculating profit for CEP transactions, we explain why it is appropriate to exclude imputed selling expenses in calculating the total actual profit for sales of the subject merchandise and the foreign like product while including these expenses as part of the total U.S. expenses when allocating a portion of the total actual profit to U.S. sales. Specifically, we stated that ''there is no need to include imputed interest amounts in the profit calculation since we have already accounted for actual interest in computing ''actual profit'' under section 772(f).'' See Policy Bulletin 97.1 at fn. 5. Furthermore, we stated that, ''when allocating a portion of the actual profit to each U.S. CEP sale, we will include imputed credit and inventory carrying costs as part of the total U.S. expenses allocation factor.'' *Id.* As noted in the Policy Bulletin, the latter statement is consistent with section 772(f)(1) of the Act which defines the term ''total U.S. expenses'' as those expenses described in sections 772(d)(1) and (2) of the Act. Therefore, we have not altered our CEP-profit calculation methodology for these final results of reviews.

11. Miscellaneous

11.A. *Clerical Errors* FAG Germany, FAG Italy, INA, Koyo, NSK, NSK–RHP, Nachi, NPBS, NTN, SKF France, SKF Germany, SKF Italy, Somecat, SNR, and the petitioner have alleged that we made certain programming and/or clerical errors in the preliminary results calculations. Where we and all parties agree that a programming or clerical error occurred, we have made the necessary correction and addressed the comment only in the final-results analysis memoranda. (See company-specific Final Results Analysis Memoranda of June 1999.) The comments included in this notice address situations where parties alleged that we made a programming or clerical error but either we disagree or a party to the proceedings disagrees with the allegation.

Comment 1: FAG Germany argues that the Department neglected to add to U.S. price amounts for ''other revenue'' it received from customers on U.S. sales. FAG Germany argues further that in all prior reviews the Department has acknowledged this type of revenue and added it to U.S. price.

Torrington contends that some of the revenue at issue includes amounts FAG Germany received where the company arranged freight and collected freight charges for transportation between the U.S. warehouse and the unaffiliated customer. Torrington concludes that an addition of such revenue is appropriate only on sales for which FAG Germany reported freight expenses and that the Department should limit the revenue adjustment to the amount reported for freight.

Department's Position: FAG Germany stated in its response that, for ''CEP sales, FAG US bills to and collects from its customer the freight charges incurred and prepaid by FAG.'' See FAG Germany's section C response dated August 29, 1998, at 65. Therefore, we find it is appropriate to add the revenue reported only to the extent that it offsets the reported freight expense and we have done this for the final results. In addition, we have only added the revenue to CEP sales since FAG Germany did not receive this revenue on its EP sales.

Comment 2: NTN argues that the Department made a clerical error in recalculating inventory carrying costs for home-market sales. Torrington agrees with NTN.

Department's Position: NTN calculated its inventory carrying costs for home-market sales erroneously by using 360 days as the period of inventory. For the preliminary results, we adjusted these miscalculated inventory carrying costs by multiplying the reported amounts, which presumably were calculated using the formula NTN indicated in its brief, by a ratio we calculated by dividing the actual number of days in inventory by 360 days. Therefore, no adjustment is necessary.

Comment 3: Torrington argues that the Department made a clerical error in calculating the CEP offset for SNR by suppressing certain programming language. Torrington claims that this error could lead to a potential overstatement or understatement of the CEP offset.

SNR argues that the alleged clerical error is part of a new set of standard programming language the Department uses to calculate the CEP offset properly when there are commissions on only some of the home-market sales. SNR asserts that, since it did not pay commissions on home-market sales, the suppressed programming language was not necessary for the Department's margin calculation.

Department's Position: We did not need to use the programming language concerning home-market commissions in our calculation of SNR's margin. However, to avoid the appearance of a programming error, we have not suppressed the programming instruction for the final results of these reviews. This change did not affect the weighted-average margin for SNR.

Comment 4: SKF Germany contends that, in its preliminary analysis memorandum, the Department listed inventory carrying costs for ocean transit time between Europe and the United States as subtracted in the calculation of the CEP incorrectly but that the calculations were accurate.

Torrington argues that, consistent with SKF Germany's recording of such expenses, the Department should have deducted these costs as an expense associated with U.S. commercial activity.

Department's Position: Listing these particular inventory carrying costs in the analysis memorandum as a subtraction from the calculation of CEP was a clerical error. With regard to Torrington's argument for subtracting the expenses at issue, we disagree because we find that the expenses are not associated with U.S. economic activity. See our response to Comment 1 in the section on inventory carrying costs above.

Comment 5: Nachi asserts that the Department made a clerical error that exaggerates values for ''Other U.S. Direct Selling Expenses'' by a factor of one hundred.

Torrington expresses concern over whether Nachi has identified the alleged error adequately and states that it only concurs with the respondent's argument to the extent that a clerical error occurred.

Department's Position: Upon examining Nachi's U.S. sales database, we determined that we made a formatting error that caused the values for ''Other U.S. Direct Selling Expenses'' to be overstated by a factor of 100 which may have occurred when we processed the U.S. sales database Nachi submitted. We have corrected this error for the final results of review.

Comment 6: NPBS argues that the Department made a clerical error in calculating the ratio it used to determine CEP profit. Specifically, NPBS asserts that, in calculating the total profit for use in determining the CEP-profit ratio, the Department ''grossed up'' the profit and costs for the U.S. sales made in the sample weeks but neglected to ''gross up'' the profit and costs for the home-market sales made in the sample months, thereby understating profit on home-market sales. NPBS asserts that this error led to an overstatement of the CEP-profit ratio and, therefore, an inflation of its dumping margin. To correct this error, NPBS proposes a methodology for ''grossing-up'' the sampled home-market sales.

Torrington argues that the Department's calculation of the ratio used to determine CEP profit was reasonable and consistent with the section 772(f)(2)(C) of the Act. Torrington therefore contends that the Department should not alter its calculation of the ratio.

Department's Position: We find that we made a clerical error in our calculation of the total actual profit we used to determine the ratio for CEP profit. Since NPBS reported sales on a sampled basis, before calculating total actual profit it is necessary to ''gross up'' the revenues and expenses for the U.S. and comparison-market sales to ensure that they are on a comparable basis. Due to a clerical error, we did not make this adjustment to NPBS's sampled home-market sales for the preliminary results. We have corrected this error for the final results by applying our customary ''grossing-up'' ratio to the sampled home-market sales. We did not use NPBS's proposed methodology because it is not consistent with our practice in these proceedings.

Comment 7: NPBS argues that the Department treated its reported U.S. advertising expenses erroneously as direct selling expenses. NPBS states that, in its response, it explained that its U.S. affiliate does not assume expenses for advertising directed at its customers' customers. NPBS states that, despite the fact that it identified its U.S. advertising expenses separately, this does not deem such expenses as direct in nature. NPBS concludes that the Department should treat the reported U.S. advertising expenses as indirect selling expenses. In addition, NPBS requests that the Department add its reported U.S. advertising expenses to the calculation of U.S. indirect selling expenses in the margin calculations.

Torrington disagrees with NPBS, stating that the burden rests upon NPBS to prove that its reported U.S. selling expenses are indirect. Torrington contends that, because NPBS did not satisfy this burden, the Department should continue to treat these expenses as direct selling expenses for the final results.

Department's Position: We treated NPBS's reported advertising expenses inadvertently as a direct expense for the preliminary results of review. Since NPBS stated in its questionnaire response that the advertising expenses were indirect in nature and we did not find it necessary to subject this response to additional verification, we have accepted its description of these expenses as indirect and have treated them as indirect for these final results. In addition, because NPBS removed its reported U.S. advertising expenses from its per-unit ISE calculation and reported these expenses separately from one another, we added the advertising expenses to its reported indirect selling expenses in our final margin calculations.

Comment 8: SNR argues that the Department's arm's-length test contains a clerical error which distorts the calculation of the customer-specific percentage ratio of affiliated-to-unaffiliated sales prices. SNR contends that the error occurs when there is a sale of a model to an affiliated party but no sale of that same model to an unaffiliated party. SNR states that in these situations the Department assigns a zero to these sales which distorts the overall average because the ratios are weighted by the total quantity of affiliated-party sales. SNR argues that this distortion virtually guarantees that the overall average will drop below 99.5 percent and that, as a result, the Department disregards all sales of models to affiliated parties without corresponding sales to unaffiliated parties in the calculations.

Torrington did not rebut this issue.

Department's Position: We find that the test does contain a clerical error. We have made the appropriate changes to our calculations for these final results. For the same reason, we have also made the appropriate changes to the calculations for SKF Sweden, SKF Italy, SKF France, SKF Germany, NTN, Nachi, Koyo, FAG Germany, FAG Italy, NSK–RHP, NSK, Somecat S.p.A., the Barden Corporation, Torrington Nadellager, and INA.

11.B. Miscellaneous Other

Comment 1: Somecat contends that the Department should clarify that Somecat's dumping margin applies to Italian bearings marked ''SNFA'' to reduce the likelihood of confusion for the Customs Service at the time of entry and for liquidation purposes. The respondent asserts that the record demonstrates that Somecat bearings are laser-marked with the label ''SNFA ITALY'' and that Somecat's bearings are packaged in boxes marked with the SNFA trade name. In addition, Somecat contends, the cover page to its product catalog plainly shows a bearing marked ''SNFA Italy'.

The petitioner takes no position with respect to Somecat's request for clarifying that its dumping margin applies to Italian bearings marked ''SNFA Italy'.

Department's Position: The record reflects that Somecat's bearings are marked ''SNFA ITALY''. To reduce the possibility of confusion at the time of entry and to ensure that the Customs Service assesses dumping duties on Somecat's bearings properly, we will refer to Somecat as ''Somecat or SNFA Italy'' in our cash-deposit instructions and liquidation instructions.

Comment 2: Torrington asserts that it requested that the Department make a determination at verification as to whether FAG Italy reimbursed its U.S. affiliate for antidumping duties. It now requests that the Department pursue additional inquiries into this issue or make a determination of the issue based on the current record.

FAG Italy rebuts that the Department stated in its report on the home-market sales verification that the verification was not the appropriate forum at which to conduct a reimbursement inquiry. It asserts that the Department was correct in this assessment. FAG Italy argues that, notwithstanding this point, Torrington has actually presented record evidence which supports the position that no reimbursement occurs. It contends that Torrington has cited to the consolidated 1997 FAG Group financial statement, which accounts for FAG US's antidumping duty liabilities. FAG Italy asserts that Torrington must submit either record evidence of financial intermingling between group companies or the existence of a written agreement between these companies regarding reimbursement before the Department is obligated to conduct a further inquiry into reimbursement.

Department's Position: There is no obligation to conduct an inquiry into reimbursement based on the information on the record. Reimbursement, within the meaning of section 351.402(f) of the Department's regulations, takes place between affiliated parties if evidence demonstrates that the exporter pays antidumping duties on behalf of the affiliated importer or reimburses the importer for such duties. In this case, the petitioner has not presented evidence that a reimbursement agreement exists. Mere allegations of reimbursement are not sufficient to sustain a more in-depth reimbursement inquiry. See *AFBs 7,* 62 FR at 54043. See also *Torrington* v. *United States,* 881 F. Supp. 622, 632 (CIT 1997), *aff'd,* 127 F.3d 1077, 1080 (CAFC 1997). Therefore, we have not conducted any further inquiry into reimbursement.

12. Romania-Specific Issues

Comment 1: Torrington argues that the Department should modify the calculation of normal value in its analysis of TIE by applying the appropriate inflators, based on changes in the published Consumer Price Index (CPI), to the base data used in the Department's memorandum entitled ''Expected Wage Rates of Selected NME Countries—1995 Income Data'' (wage memorandum). Torrington argues that the wage values upon which the Department relied in the preliminary results have not been updated to account for changes due to inflation since 1995. Citing section 351.408(c)(3) of the Department's regulations, Torrington claims that the Department's calculation of wage rates should be based on current data. Torrington also asserts that the Department's wage memorandum uses a CPI inflator to adjust pre-1995 wage data and that, in prior reviews, the Department valued wages based on a single surrogate by applying an inflator to values obtained for wages whenever the values pertained to periods preceding the investigation period, citing *Preliminary Results of Antidumping Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Romania,* 63 FR 11217, 11218 (March 6, 1998).

Department's Position: We have updated the 1995 base data by applying 1997 data in accordance with section 351.408(c)(3) of our regulations and used this information in calculating normal value for our analysis of TIE.

Comment 2: TIE argues that the Department's preliminary margin calculation for one model contains an obvious ministerial error, causing an abnormally high normal value for this model. TIE claims that it provided an overstated weight value for low-density foil in its questionnaire response inadvertently and the Department then used this erroneous value in its margin calculation. TIE points out that the low-density foil weight exceeds the total weight of the bearing. TIE claims further that the Department has the authority to correct errors which are obvious and has done so in previous cases, citing *Technoimportexport, S.A.* v. *United States,* 766 F. Supp. 1169, 1178 (CIT 1991). Therefore, for purposes of the final results, TIE requests that the Department correct this error and use the low-density foil weight listed in its March 22, 1999, case brief or the low-density foil weight found in TIE's response for similar models.

In rebuttal, Torrington contests TIE's argument that an obvious ministerial error occurred in the reporting of this packaging factor. Torrington asserts that the new information is untimely and unreliable, citing section 351.301 of the Department's regulations. Torrington argues further that the Department recognizes an exception to the general rule in the case of obvious errors, provided that: (1) the error is of a clerical nature; (2) the fact of the error is obvious from the record at the time the new data are submitted; and (3) the correctness of the new data is obvious, citing *RHP Bearings* v. *United States,* 19 CIT 1389, 1392 (1995), and *RHP Bearings* v. *United States,* 875 F. Supp. 854, 857 (CIT 1995). Torrington claims that there is nothing on the record which supports the corrections of the new data offered by TIE. Therefore, Torrington argues, the Department should not accept TIE's amended data.

Department's Position: We will accept corrections of clerical errors made in a party's submission under the following conditions: (1) The error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment or a substantive error; (2) the Department must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical-error allegation, and any corrective documentation, must be submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error must not entail a substantive revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification. See *Final Results of the Antidumping Duty Administrative Review; Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China,* 63 FR 16758 (April 6, 1998). TIE's alleged clerical error satisfies these six criteria. We agree that the error is obvious and clerical in nature. It is not a substantive error and does not entail a substantive revision of TIE's response. We have reviewed the record and found that similar models had approximately the same weight for low-density foil as reported in TIE's case brief. Therefore, we accept TIE's request that we revise this error and have used the information in TIE's case brief in our final margin calculations.

[FR Doc. 99–16657 Filed 6–30–99; 8:45 am]

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