provided to the representatives of Belgium, Canada, Italy, Republic of Korea, Republic of South Africa, and Taiwan. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by May 15, 1998, whether there is a reasonable indication that imports of SSPC from Belgium, Canada, Italy, Republic of Korea, Republic of South Africa, and Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will, for any country, result in the investigations being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to Section 777(i) of the Act.

Dated: April 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–10997 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–815]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Sulfanilic Acid From the Peoples' Republic of China

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

EFFECTIVE DATE: April 27, 1998.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the 1996–1997 administrative review for the antidumping order on Sulfanilic Acid from the PRC, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Kristin Stevens, Doug Campau or Steven Presing, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit.

Since it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with Section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim due date	Final due date*
Sulfanilic Acid (A–570–815)	PRC	8/1/96–7/31/97	9/25/97	7/03/98	10/31/98

*The Department shall issue the final determination 120 days after the publication of the preliminary determination.

Dated: April 21, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement, Group III.

[FR Doc. 98–11136 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–604; A–588–054]

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

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

ACTION: Notice of final results of antidumping duty administrative reviews and termination in part.

SUMMARY: On May 20, 1996, the Department of Commerce (the Department) published the preliminary results of its 1992–93 and 1993–94 administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers four manufacturers/exporters and ten resellers/exporters of the subject merchandise to the United States during the period October 1, 1993, through September 30, 1994, and one manufacturer/exporter for the period October 1, 1992, through September 30, 1993. The review of the A–588–604 order covers five manufacturers/exporters, ten resellers/exporters, and seventeen firms identified by the petitioner in this case as forging producers, and the period October 1, 1993, through September 30, 1994. The A–588–604 review also covers one manufacturer/exporter for the period October 1, 1992, through September 30, 1993.

We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 7, 1994 (59 FR 51166), the Department published the notice of ''Opportunity to Request an Administrative Review'' for the 1993–94 reviews of both TRBs cases. The petitioner, the Timken Co. (Timken), and two respondents requested administrative reviews. We initiated the A–588–054 and A–588–604 administrative reviews for the period October 1993 through September 1994 on November 14, 1994 (59 FR 56459). On May 20, 1996, we published in the **Federal Register** the preliminary results of the 1993–94 administrative reviews of the antidumping duty order and finding on TRBs from Japan (*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; Preliminary Results of Antidumping Duty Administrative Reviews and Termination in Part,* 61 FR 25200 (*Prelim Results*).

The *Prelim Results* also included the preliminary results for the 1992–93 administrative reviews of both TRBs cases for Koyo Seiko Company, Ltd. (Koyo). While we initiated the 1992–93 reviews of both TRBs cases on November 17, 1993 (58 FR 60600) and published our final results of administrative reviews for the 1992–93 period in the **Federal Register** on November 7, 1996, we did not include Koyo in these 1992–93 reviews (*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 Revocation in Part of an Antidumping Finding,* 61 FR 57629 (*TRBs 92–93*)). Rather, as explained in our *Prelim Results,* we determined that, because we had yet to make our final scope determination concerning Koyo's rough forgings, rather than delay our 1992–93 results of review for all other reviewed firms, we would conduct Koyo's 1992–93 reviews after making our final scope determination. On February 2, 1995, we published in the **Federal Register** our final scope determination in which we found Koyo's rough forgings to be within the scope of the A–588–604 TRBs order (60 FR 6519). We provided Koyo additional time to submit sales and cost information concerning its rough forgings for both the 1992–93 and 1993–94 administrative reviews and determined that, due to the timing of our receipt of this information and the timing of our 1993–94 administrative review analysis, it would be appropriate to conduct the 1992–93 and 1993–94 reviews for Koyo concurrently (*see Prelim Results* at 25200). As a result, both Koyo's 1992–93 and 1993–94 final results are included in this instant notice.

On August 21, 1996, we held a hearing which covered the 1993–94 reviews of both the A–588–054 and A–588–604 TRBs cases and the 1992–93 reviews of Koyo in both the TRBs cases. In addition, the Department re-opened the administrative record of these proceedings on March 16, 1998 to afford Kawasaki an additional opportunity to submit a complete response to the Department's antidumping questionnaire. On March 23, 1998, Kawasaki declined to do so.

The Department has now completed these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under the Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except for those manufactured by NTN Bearing Corporation, Ltd. (NTN). This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8484.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. In addition, in accordance with our February 2, 1995, final scope determination concerning Koyo's rough forgings, Koyo's rough forgings are also included within the scope of the A–588–604 order.

The HTS numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written description remains dispositive.

The period for each 1993–94 review is October 1, 1993, through September 30, 1994. These reviews cover TRBs sales by five TRBs manufacturers/exporters (Koyo, NSK Ltd. (NSK), NTN, Nachi-Fujikoshi Corporation (Nachi), and Maekawa Bearing Mfg. Co., Ltd. (Maekawa)), and ten resellers/exporters (Honda Motor Company (Honda), Fuji Heavy Industries, Ltd. (Fuji), Kawasaki Heavy Industries, Ltd. (Kawasaki), Yamaha Motor Co., Ltd. (Yamaha), Sumitomo Corporation (Sumitomo), Itochu Co., Ltd. (Itochu), Suzuki Motor Co., Ltd. (Suzuki), Nigata Converter Co., Ltd. (Nigata), Toyosha Co., Ltd. (Toyosha), and MC International (MC Int'l)). These reviews also cover U.S. sales/importations of forgings by Koyo, NTN, and seventeen firms identified by the petitioner as Japanese forging producers (Daido Steel Co., Ltd. (Daido Steel), Asakawa Screw Co., Ltd. (Asakawa), Fuse Rashi Co., Ltd. (Fuse), Hamanaka Nut Mfg. Co., Ltd. (Hamanaka), Ichiyanagi Tekko (Ichiyanagi), Isshi Nut Industries (Isshi Nut), Kawada Tekko, Kinki Maruseo Nut Kogyo Kumiai (Kinki), Kitazawa Valve Co., Ltd. (Kitz Corp.), Nittetsu Bolten (Nittstsu), Shiga Bolt, Shinko Bolt, Sugiura Seisakusho (Sugiura), Sumikin Seiatsu (Sumikin), Toyo Valve Co. (Toyo Valve), Unytite Fastener Mfg. Co., Ltd. (Unytite Kogyo), and Showa Seiko Co., Ltd. (Showa)).

As explained in the *Prelim Results,* we have terminated the 1993–94 reviews of the A–588–604 case for Fuse, Hamanaka, Kinki, Kitz Corp., Shiga Bolt, Shinko Bolt, Sugiura, Toyo Valve, Nittetsu, Sumikin, and Unytite Kogyo (see *Prelim Results* at 25202). As also explained in the *Prelim Results,* we used for Nachi, Kawasaki, Daido Steel, Kawanda Tekko, Asakawa, Ichiyanagi, and Isshi Nut a first-tier non-cooperative total best information available (BIA) rate of 40.37 percent in the A–588–604 case. In addition, we used a first-tier total BIA rate of 47.63 percent for Kawasaki and Nachi in the A–588–054 case (see *Prelim Results* at 25201).

Because Fuji and MC Int'l did not make any shipments of subject merchandise during the POR in the A–588–604 case and because Showa did not make any shipments of subject merchandise during the POR in the A–588–604 case, as explained in our *Prelim Results,* we have not assigned a rate to Fuji and MC Int'l in the A–588–604 nor to Showa in the A–588–604 case (see *Prelim Results* at 25202).

Because we determined in the *Prelim Results* that Itochu and Sumitomo have no influence over the sale prices and quantities of those shipments of TRBs they made to the United States, we have determined that the supplier's rates, and not unique Sumitomo and Itochu rates, should be applied for cash deposit and appraisement purposes (see *Prelim Results* at 25202).

Finally, we have terminated the 1993–94 A–588–054 review for Honda since we recently revoked Honda from the A–588–054 finding in our 1992–93 final results (see *TRBs 92–93* at 57650).

The period for the 1992–93 reviews is October 1, 1992, through September 30, 1993. The 1992–93 reviews of both the A–588–054 and A–588–604 cases included in this notice cover TRBs sales by Koyo.

Analysis of Comments Received

We received case briefs from Timken, Koyo, NTN, NSK, Fuji, and Kawasaki. We received rebuttal briefs from Timken, Koyo, NTN, and NSK. In addition, at the request of the presiding official at the hearing, we received additional comments from NTN on August 28, 1996, and additional comments from Timken on September 9, 1996, regarding the issue of new information in NTN's rebuttal brief. These comments, and those contained in all of the case and rebuttal briefs, are addressed below in the following order:

1. Miscellaneous Comments Concerning Model Match, Set-Splitting, Level of Trade, Sales Not in the Ordinary Course of Trade, Arm's Length Test, Annual Averaging, and Assessment
2. Adjustments to United States Price (USP)
3. Discounts, Rebates, and Post-Sale Price Adjustments (PSPAs)
4. Cost of Production (COP) and Constructed Value (CV)
5. Clerical and Computer Programming Errors

1. Miscellaneous Comments

Comment 1: NTN argues that the Department incorrectly split home market TRB sets which are ''unsplittable.'' NTN claims that, because certain of its TRB models contain cups and cones which are never sold individually in any market, it is illogical to split such models into individual cup and cone sales. Furthermore, NTN states that because the rationale behind the Department's set-splitting methodology is to find merchandise ''such or similar'' to individual cups and cones sold in the United States, the Department may only split TRB sets sold in the home market which contain cups and cones identical or similar to those cups and cones sold individually in the United States. NTN argues that, because cups and cones contained in its ''unsplittable'' sets are never sold individually, they do not represent merchandise which is potentially similar to individually sold cups and cones. Therefore, NTN asserts, the Department creates, by splitting such sets, a pool of home market cups and cones which cannot be fairly considered as candidates for matching to cups and cones sold separately in the United States.

Timken argues that, in accordance with section 771(16) of the Tariff Act, the Department's model-match methodology reasonably assesses objective physical criteria and the variable costs of production when identifying that home market merchandise which is such or similar to merchandise sold in the United States. Timken asserts that if the cup or cone split from an ''unsplittable'' set is physically identical, or most physically similar, to a cup or cone individually sold in the United States, there is no statutory basis for the Department to reject such a comparison. Timken further states that NTN's argument, which basically asserts that a cup or cone sold within a set can never be found to be such or similar to a cup or cone that is sold separately, calls for an additional matching factor which is unwarranted by the statute. Finally, Timken argues that if the Department were not to split NTN's claimed ''unsplittable'' sets, the pool of home market such or similar merchandise would be narrowed and the Department's ability to match U.S. and home market merchandise would be curtailed.

Department's Position: We agree with Timken. Section 771(16) of the Tariff Act does not require that such or similar merchandise be sold in the same manner as merchandise under review. TRB components that are sold solely within sets do not lose their status as merchandise such or similar to individually-sold TRB components simply by virtue of the fact that they are sold as components of sets instead of as individual cups and cones. The fact that a home market cup or cone was never sold individually in any market does not preclude the possibility that that cup or cone may be the most physically similar merchandise to cups and cones NTN sold separately in the United States. Because they may be the most similar products, it is appropriate to include this merchandise in the pool of home market sales and, if such cups and cones are determined to be the most similar merchandise to products sold in the United States, it is appropriate to use them in our dumping comparisons, as we have done in past reviews of NTN and as has been approved by the Court of International Trade (CIT) (see, e.g., *NTN Bearing Corp.* v. *United States,* 747 F. Supp. 726, 741 (CIT 1990), *NTN Bearing Corp.* v. *United States,* 924 F.Supp. 200, 206 (CIT 1996) *TRBs 1992–93* at 58631, and *Final Results of Antidumping Duty Administrative Reviews; 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,* 58 FR 64720 (December 9, 1992) (*TRBs 1990–92*)).

Comment 2: NTN contends that the Department improperly determined its reported home market sample and small-quantity sales to be in the ordinary course of trade and included such sales in its margin calculations. NTN argues that its home market sample sales cannot be considered as in the ordinary course of trade because they are items which enable a customer to make a buying decision, and maintains that its reported home market small-quantity sales cannot be considered ordinary, given the extremely small quantities involved. Citing to past TRBs reviews in which the Department excluded these sample and small-quantity sales from its margin calculations for NTN, NTN asserts that, in view of the Department's past exclusion of such sales as outside the ordinary course of trade, the Department should do so in these final results as well in accordance with *Shikoku Chemicals Corp* v. *United States,* 795 F. Supp. 417 (CIT 1992) (''At some point Commerce must be bound by its prior actions so that parties have a chance to purge themselves of antidumping liabilities'') and in accordance with the Supreme Court's observation that ''long-continued methodologies naturally serve to provide the basis from which subjects of agency investigation adjust their behavior'' (*Id.* at 12, n.8. (quoting *United States* v. *Midwest Oil Co.,* 236 U.S. 459 (1915)).

Timken argues that, while the Department did grant NTN's claim in some past proceedings, it has denied the claim in the most recent TRBs reviews and in several of the reviews of the antidumping duty order on antifriction bearings (AFBs) from Japan. In addition, Timken points out that two of the TRBs determinations NTN relies on have been remanded by the CIT, and in both cases the Department reversed its position and included NTN's sample and small-quantity sales within its margin calculations (the Department's *Final Remand Results Pursuant to The Timken Company* v. *United States,* Court No. 92–03–0061, transmitted to the CIT on December 13, 1994, and the Department's *Final Remand Results Pursuant to The Timken Company* v. *United States,* Court No. 92–03–00162, transmitted to the CIT on December 16, 1994). Given these changes, Timken contends, it is clear that the

Department's preliminary determination to include these sales in its margin calculations is in accordance with established precedent.

Further, Timken argues that it has been the Department's long-standing policy to require a respondent to provide sufficient evidence to support any claim for the exclusion of sales as not in the ordinary course of trade. Therefore, Timken contends, because NTN failed to demonstrate that its alleged small-quantity and sample sales were outside the ordinary course of trade, the Department reasonably determined that NTN failed to meet the burden of demonstrating that the sales in question were outside the ordinary course of trade.

Department's Position: We agree with Timken. Section 773(a)(1)(A) of the Tariff Act states that the Department is required to compare the price of the merchandise imported into the United States to the price of the merchandise sold or offered for sale ''in the principal markets of the country from which exported in the usual commercial quantities and in the ordinary course of trade for home market comparison.'' As defined in section 771(15) of the Tariff Act, ordinary course of trade means the ''conditions and practices which, for a reasonable time prior to exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind.''

Generally, when determining whether home market sales are within the ordinary course of trade, the Department applies the standards set forth in *Murata Mfg. Co., Ltd.* v. *United States,* 820 F. Supp. 603, 606 (CIT 1993) (*Murata*), *Nachi-Fujikoshi Corp.* v. *United States,* 798 F. Supp. 716, 718–719 (CIT 1992) (*Nachi*), and *Mantex, Inc., et. al.,* v. *United States,* 841 F. Supp. 1290, 1305–1309 (CIT 1993) (*Mantex*). In *Murata* the CIT quoted with approval the Department's statement in *Certain Welded Steel Standard Pipes and Tubes from India; Final Results of Antidumping Duty Administrative Reviews,* 56 FR 64753 (1991), that the Department, in determining whether home market sales are in the ordinary course of trade, does not rely on one factor considered in isolation, but rather considers all circumstances of the sales in question. In addition, the CIT noted that in other cases the Department determined that sales were outside the ordinary course of trade based not only on the presence of small quantities or high prices, but also because the Department found other factors that supported the outside-the-ordinary-course-of-trade categorization (see *Murata* at 9). In *Nachi* the CIT held that the Department must make determinations regarding sample sales by examining the relevant facts of each individual case and that the burden of proof to demonstrate that such sales are outside the ordinary course of trade lies with the respondent (see *Nachi* at 718). In *Mantex* the CIT restated its previous opinion in *Nachi (see Mantex* at 1306).

In its response NTN described its sample sales as sales of items to a customer which are used by the customer to determine whether or not to buy the product. NTN explained that, through statements and other representations the customer makes, NTN determines the ''sample'' nature of the sale and codes the sale accordingly. Concerning its small-quantity sales reported as not in the ordinary course of trade, NTN explained that for each transaction where the total quantity was three units or less, and the total number of transactions during the POR was seven or less, NTN searched back to fiscal year 1990 and, if certain conditions were met, it considered the sale as outside the ordinary course of trade. The only other information on the record regarding these sales are NTN's computer data files in which it reported such sales separately from the rest of its home market data base.

In accordance with *Murata,* we attempted to examine all factors surrounding NTN's reported sample and small-quantity sales to determine if they were outside the ordinary course of trade. However, NTN provided us with little information other than a general description of these sales upon which to base such a determination. The administrative record contains no other narrative explanation, supporting documentation, or other evidence to demonstrate why these sales are not representative of NTN's normal practices in selling TRBs in Japan, or otherwise demonstrates the ''aberrational'' nature of these sales. For example, we have no evidence supporting the notion that NTN's sample sales were sold only for the purpose of allowing the customer to make a decision to buy. Likewise, we have no evidence supporting NTN's categorization of its ''small-quantity'' sales as abnormal, other than the fact that they were small-quantity sales. In accordance with *Nachi*, the burden of proving that its sales are outside the ordinary course of trade lies clearly with the respondent, and in this instance NTN has failed to meet that burden.

Furthermore, this is not the first review or the first case in which we have rejected NTN's categorization of certain of its sales as not in the ordinary course of trade. In our last three TRBs reviews we clearly explained that we applied the *Murata* and *Nachi* standards to our determination of whether such sales were indeed outside the ordinary course of trade (see *TRBs 92–93* at 57639 and *TRBs 90–92* at 64732). In those reviews we determined that NTN did not supply sufficient evidence to allow us to determine that these sales were outside the ordinary course of trade. As a result, NTN has had clear notice prior to these current reviews that its response failed to demonstrate the ''not-in-the-ordinary-course-of-trade'' status of its sample and small-quantity sales. However, NTN took no steps to improve its response regarding this issue, but rather provided only the same general information with little other explanation.

Therefore, for the reasons stated above, and in accordance with our established practice, we have not changed our treatment of NTN's sample and small-quantity home market sales for these final results. Rather, we have again determined these sales to be within the ordinary course of trade and we have included them in our margin calculations.

Comment 3: NSK argues that the Department must apply the ordinary meaning of ''sale'' to the antidumping law (which involves not only the transfer of ownership, but the payment, or promise, of consideration), and should exclude from its analysis those free samples NSK reported as given away to its customers in the United States. NSK claims that it has provided evidence demonstrating that this free U.S. merchandise constitutes promotional samples, and contends that, by including this promotional merchandise in its analysis, the Department fails to recognize the normal business practice of giving away free samples and calculates distortive margins. Finally, NSK argues that, in accordance with the *Torrington Company* v. *United States,* 926 F. Supp. 1151 (CIT 1996), for the purpose of calculating antidumping duties, the Department reviews sales, not entries. Therefore, NSK concludes, there is no basis for including this merchandise in the Department's margin calculations.

Timken argues that not only does the statute require the Department to calculate a value for each U.S. entry of subject merchandise, but, if the Department accepts NSK's arguments, it would allow NSK to evade the law by providing zero-priced merchandise as gifts while raising its prices on other subject merchandise identified as sales.

Department's Position: On June 10, 1997, the CAFC held that the term ''sold'' requires both a transfer of ownership to an unrelated party and consideration. *NSK Ltd.* v. *United States,* 115 F.3d 965, 975 (Fed. Cir. 1997) (*NSK*). The CAFC determined that samples which NSK had given to potential customers at no charge and with no other obligation lacked consideration. Moreover, the CAFC found that, since free samples did not constitute ''sales,'' they should not have been included in calculating U.S. price.

In light of the CAFC's opinion, we have revised our policy with respect to samples. The Department will now exclude from its dumping calculations sample transactions for which a respondent has established that there is either no transfer of ownership or no consideration.

This new policy does not mean that the Department automatically will exclude from analysis any transaction to which a respondent applies the label ''sample.'' It is well-established that the burden of proof rests with the party making a claim and in possession of the needed information (see, e.g., *NTN Bearing Corporation of America* v. *United States,* 997 F.2d 1453, 1458–59 (CAFC 1993), (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (CAFC 1993), and *Tianjin Mach. Import & Export Corp.* v. *United States,* 806 F. Supp. 1008, 1015 (CIT 1992)). When respondents fail to support their sample claim, we did not exclude the alleged samples from our margin analysis.

In light of the policy above, we have determined that the record indicates that NSK's reported sample transactions did not involve consideration. Accordingly, pursuant to the CAFC's decision in *NSK,* we have excluded NSK's reported U.S. sample sales from the U.S. sales database.

In addition, with regard to assessment rates, in order to ensure that we collect duties only on sales of subject merchandise, we included the entered values and quantities of the sample transactions in our calculation of NSK's assessment rate and set the dumping duties due for such transactions to zero. We have done this because U.S. Customs will collect the *ad valorem* duties on all entries of subject merchandise whether or not the merchandise was a sample transaction. However, to ensure that sample transactions do not dilute the cash deposit rates, we excluded both the calculated U.S. prices and quantities for sample transactions from our calculation of the cash deposit rates.

Comment 4: NTN claims that the Department's sum-of-the-deviations model-match methodology inconsistently treats the Y2 factor variable. Specifically, NTN questions why the Department sets the variable ''Y2H'' equal to ''Y2DEV'' when the Department sets the deviation for the outside diameter (OD) variable equal to zero.

Timken argues that the Department's sum-of-the-deviations model-match methodology properly reflects the reality of bearing characteristics. For example, Timken states, because thrust TRBs have a zero Y2 factor, when comparing thrust to non-thrust TRBs, the Department correctly set the Y2 factor deviation equal to the non-zero Y2 factor value because the difference between a zero and non-zero value will always be the non-zero value. Timken further asserts that, because the Department only compares TRB cups to cups and TRB cones to cones, if the inside diameter (ID) or OD for the U.S. TRB is zero, the value for the ID or OD for the home market TRB being compared will automatically be zero. Therefore, Timken concludes, if the ID or OD for the U.S. TRB is zero, and the ID or OD for the home market TRB is also zero, the ID or OD deviation between the U.S. and home market cups or cones compared will automatically be zero.

Department's Position: We agree with Timken. In order to determine the home market merchandise most similar to U.S. merchandise, we apply our sum-of-the-deviations model-match methodology using five physical criteria of TRBs: ID, OD, width, load rating, and the Y2 factor. Because each of these criteria are quantitatively measured, we compare the value for each criterion for the U.S. model to that for the home market merchandise and calculate the difference. Once we determine the deviation for each criterion, we derive the overall sum of the deviations for all five criteria and use this value to rank the most similar home market merchandise.

When we first developed this methodology we realized that, in certain instances, the ID, OD, or Y2 factor of a TRB would be equal to zero. For example, TRB cups do not have an ID, TRB cones do not have an OD, and thrust TRBs may not have a Y2 factor. Because we only compare U.S. cups to home market cups and U.S. cones to home market cones, the ID for each U.S. and home market cup compared would be equal to zero and the OD for each U.S. and home market cone compared would be equal to zero. As a result, the ID deviation for cup comparisons would automatically equal zero and the OD deviation for cone comparisons would automatically equal zero. In order to account for this in our sum-of-the-deviations model-match methodology, if the ID or OD of the U.S. TRB is equal to zero, we automatically set the ID or OD deviation equal to zero.

In contrast to the above, we do not compare U.S. thrust TRBs to only home market thrust TRBs (see *TRBs 92–93* at 57631 and *TRBs 90–92* at 64721). Therefore, if the Y2 factor for the U.S. model is equal to zero, the Y2 factor for the comparison home market model will not automatically be equal to zero. Because we calculate the deviation between U.S. and home market criteria as the absolute value of one minus the home market TRBs criterion value divided by the value of the U.S. TRBs criterion, if the U.S. Y2 factor value is equal to zero, we would, in effect, be dividing by zero in our computer program. Therefore, to ensure the proper calculation of the Y2 factor deviation when the U.S. model's Y2 factor is equal to zero, we automatically set the Y2 deviation equal to the home market TRBs value.

Comment 5: Both Fuji and Kawasaki argue that, because merchandise which meets the criteria for the application of the ''Roller Chain'' principle is outside the scope of the Japanese TRBs order and finding, the Department should adopt an assessment strategy which would ensure that antidumping duties are not assessed on this ''Roller Chain'' merchandise.

Fuji proposes that one method would be for the Department to assess duties on an entry-by-entry basis. Fuji claims that not only would this ensure proper assessment of Fuji's entries, but it would be administratively easy for the Department to do given the fact that Fuji has provided the Department with its entry numbers. Alternatively, Fuji suggests that, because all of those TRBs which qualify for exclusion under the ''Roller Chain'' principle were imported by a single related importer, Subaru-Isuzu Automotive, Inc. (SIA), the Department should assess duties on an importer-specific basis and apply zero duties to all SIA imports. Fuji adds that if the Department selects this option it should also adjust the cash deposit rate it calculates for Fuji to take into account the ''Roller Chain'' merchandise by including the value of the ''Roller Chain'' merchandise in the cash deposit rate calculation denominator. Finally, Fuji proposes that, if the Department rejects these first two proposals, the Department should, at a minimum, adjust both the cash deposit and assessment rates it calculates for Fuji by including the value of the TRBs meeting the ''Roller Chain'' criteria in the denominators used when calculating these rates.

Kawasaki contends that not only is there sufficient evidence on the record to demonstrate that all A–588–054 TRBs imported by Kawasaki Motors Manufacturing Corporation (KMM) meet the ''Roller Chain'' principle, but there is also sufficient evidence allowing the Department to identify the total value of KMM's A–588–054 TRB imports. Thus, Kawasaki asserts, the Department has the information necessary to calculate an A–588–054 assessment rate for Kawasaki which would effectively exclude KMM's entries of TRBs from antidumping duty assessment.

With regard to Fuji, Timken argues that if the Department decides to apply a single assessment rate to all of Fuji's imports, and recalculates Fuji's assessment rate to take into account Fuji's ''Roller Chain'' merchandise, the Department should first be certain that liquidation was suspended and antidumping duty deposits were paid on Fuji's ''Roller Chain'' merchandise. If Fuji's ''Roller Chain'' entries were suspended, Timken argues, the Department should not use the assessment rate Fuji proposed in its comments. Rather, Timken asserts, because duties are assessed on entered value, the Department should calculate Fuji's assessment rate by including in the calculation denominator the sum of the entered values of both Fuji's non-''Roller Chain'' and ''Roller Chain'' merchandise.

In response to Fuji's contention that the Department should apply to Fuji cash deposit and assessment rates which are identical, Timken argues that, while the statutory scheme requires estimates of antidumping duties to be as accurate as possible, it is not necessary that cash deposit rates be absolutely accurate (*Badger-Powhatan, a Division of Figgie International, Inc.* v. *United States*, 633 F. Supp. 1364, appeal dismissed, 808 F.2d 823 (Fed. Cir. 1986)). Timken therefore urges the Department to apply to all of Fuji's entries a cash deposit rate equal to the final margin rate the Department calculates for Fuji's non-''Roller Chain'' merchandise.

With regard to Kawasaki, Timken contends that the Department cannot make a determination that any of Kawasaki's entries were subject to the ''Roller Chain'' principle not only because the record lacks the information necessary for the Department to do so, but also because Kawasaki was an uncooperative respondent to which the Department applied a first-tier total BIA rate in both the A–588–054 and A–588–604 reviews. Timken contends that the Department applied total adverse BIA to Kawasaki because it submitted only partial information in response to the Department's questionnaire, which was insufficient for the Department to conduct its analysis. Timken claims that, the Department cannot accept partial data because to do so would place control of the review in the hands of Kawasaki by permitting Kawasaki to selectively provide information. Timken argues that this reasoning was upheld in *Persico Pizzamiglio, S.A.* v. *United States*, 18 CIT 299, Slip. Op. 94–61 (April 14, 1994) (*Persico*), in which the CIT explained that the acceptance of partial submissions will only encourage respondents to selectively disclose only that information which would serve to decrease a dumping margin based on BIA. Therefore, Timken states, the Department should assess Kawasaki's entries of A–588–054 TRBs at a rate equivalent to the total adverse BIA rate it assigns to Kawasaki in these final results and not make any adjustments to this rate to effectively exclude KMM's entries of TRBs.

Department's Position: We agree with the petitioner and in part with the respondents. It is important to first clarify that merchandise which meets the criteria of the ''Roller Chain'' principle is not out-of-scope merchandise. Our determination in an administrative review that the ''Roller Chain'' principle is applicable to certain merchandise is not equivalent to a determination that the merchandise is non-scope merchandise. To the contrary, in these TRBs reviews, that merchandise which we have deemed to be ''Roller Chain'' merchandise clearly falls within the scope of the A–588–054 finding and the A–588–604 order, as described earlier in this notice. Based on section 772(e)(3) of the Tariff Act and the applicable legislative history, we have developed a practice whereby we do not calculate and do not assess antidumping duties on subject merchandise which is imported by a related party and which is further processed where the subject merchandise comprises less than one percent of the value of the finished product sold to the first unrelated customer in the United States (see, e.g., *Roller Chain Other Than Bicycle From Japan*, 48 FR 51804 (November 14, 1983), and *TRBs 92–93* at 57548)). The statute provides for the assessment of antidumping duties only to the extent of the dumping that occurs. If there can be no determination of any dumping margin where the imported merchandise is an insignificant part of the product sold, then there is no dumping to offset and antidumping duties are not appropriate. Therefore, we do not consider ''Roller Chain'' merchandise as non-scope merchandise, but rather as scope-merchandise which is not subject to duty assessment.

We disagree with Fuji that our cash deposit rates should somehow take into account merchandise meeting the ''Roller Chain'' criteria because we have no way of knowing at the time of entry whether any particular entry qualifies under the ''Roller Chain'' principle for exclusion from assessment of antidumping duties. Our decision to exclude any merchandise is made on a case-by-case basis within the course of an administrative review, which takes place after the actual entry of the potentially excludable merchandise. For this reason, at the time of entry we must require cash deposits of estimated antidumping duties on all entries, including those entries of merchandise potentially excludable from assessment under the ''Roller Chain'' principle. Furthermore, cash deposit rates are estimates of dumping liability. Because at the time of entry we have no idea of the value of merchandise which we may ultimately determine meets the ''Roller Chain'' criteria, we cannot alter our cash deposit rate to effectively compensate for the value of the ''Roller Chain'' merchandise in the current review, which may be a value significantly different from that in the future.

We also disagree with Fuji that entry-by-entry assessment is a viable option for its assessment. Entry-by-entry assessment requires the traditional appraisement instructions which list each entry and the margin calculated for it. The disadvantages of such assessment are numerous. For example, because our dumping analysis focuses on sales, it is necessary for us to associate reviewed sales with entries in some way. However, companies are generally unable to make such a link. In addition, such appraisement instructions are burdensome, time-consuming, and at risk for error. It is therefore the position of the Department that assessment rates applicable to all covered entries are preferable. In comparison to entry-by-entry assessment, the use of an assessment rate which applies to all entries during the POR is far less burdensome and time-consuming, and the risk of incorrect assessment is minimized. In general, we have tried to calculate assessment rates on an importer-specific basis to prevent one importer from paying antidumping duties attributable to margins found on sales to a different importer. However, this concern for importer-specific rates is limited to those instances where the importer is not related to the foreign exporter. Where the importer is related to the foreign exporter, we consider the related parties to constitute one corporate entity and the use of manufacturer/exporter-specific assessment rates to be appropriate. Therefore, we also reject Fuji's proposal that we adopt an importer-specific rate for SIA, its related U.S. subsidiary, and we will calculate one rate for Fuji's related importers.

We have determined that Fuji's final proposal, that the assessment rate take into account the value of the ''Roller Chain'' merchandise, is the most viable assessment option and would ensure that antidumping duties are not assessed on that merchandise we determined to meet the ''Roller Chain'' principle criteria. As explained above, we do not agree that the cash deposit rate should be altered in any way. Therefore, after ensuring that liquidation was suspended for SIA's entries of TRBs, we will ensure that assessment does not occur on this ''Roller Chain'' merchandise by including the total entered value of Fuji's ''Roller Chain'' merchandise in our assessment rate calculation denominator. This will have the effect of lowering the percentage assessment rate so that, even though antidumping duties will be assessed on all entries, the lower percentage assessment rate (which will still result in the collection of the actual amount of antidumping duties owed) will effectively exclude the ''Roller Chain'' merchandise from assessment.

Concerning Kawasaki's alleged ''Roller Chain'' merchandise, as the record for these reviews demonstrates, Kawasaki only provided a response to the general information section of our questionnaire (section A) and included within this partial response a statement indicating that it declined to provide the information requested in the remaining sections of the questionnaire. Because the information Kawasaki declined to provide was its detailed home market and U.S. sales and adjustment information, we were unable to conduct an analysis of, or calculate a margin for, Kawasaki. Therefore, Kawasaki's refusal to provide a response to the additional sections of our questionnaire significantly impeded our ability to conduct a review for Kawasaki and we used a total first-tier uncooperative BIA rate of 40.47 for Kawasaki in the A–588–604 review and of 47.63 percent in the A–588–054 review (see *Prelim Results* at 25201).

Kawasaki now argues that, because it submitted information demonstrating that all of KMM's entries of A–588–054 TRBs during the POR met the requirements of the ''Roller Chain'' principle, the Department should not assess duties against this merchandise. Kawasaki, therefore, makes an argument identical to Fuji's third proposal in that it calls for the recalculation (*i.e.,* lowering) of its A–588–054 assessment rate such that duties will not be assessed against KMM's entries of TRBs.

Kawasaki's argument, however, not only overlooks the fact that the information it wants the Department to rely on to ensure that duties are not assessed on KMM's entries represented only a partial response to the questionnaire, but it ignores the fact that it was an uncooperative respondent that refused to provide the information necessary for us to conduct an analysis. Furthermore, our March 16, 1998 letter requesting once more that Kawasaki provide a complete response to our questionnaire stated specifically that failure to do so would result in our proceeding on the basis of total BIA, including issuing appraisement instructions to Customs to liquidate all Kawasaki entries, including those allegedly subject to the ''Roller Chain'' principle, at the appropriate BIA rate. On March 23, 1998, Kawasaki stated for a third time that it would not provide the requested information necessary to complete our analysis and calculate dumping margins for Kawasaki.

The CIT has ruled on several occasions that the use of a respondent's incomplete questionnaire response would only reward the respondent for failing to report requested information. For example, in Persico, the case cited by Timken in its comments, the CIT rejected the argument that the Department should have used some of the information submitted by the respondent instead of relying on other information as BIA. The CIT stated:

> ''If the court were to accept Persico's argument, such result might encourage respondents to analyze information Commerce would employ as BIA should that agency ignore a questionnaire response for being unresponsive or incomplete. Presumably, the respondent would then selectively disclose only that information which would decrease a dumping margin calculated from BIA. . . . In this way, it would be in a respondent's best interest to only partially respond to Commerce's inquiry. . . . By allowing Commerce to reject a submission *in toto*, the court encourages full disclosure by the respondent, because only full disclosure will lead to a dumping margin lower than that established by employing BIA.''

(See *Persico* at 23). In *Nippon Pillow Block Sales Co., Ltd. and FYH Bearing Units USA, Inc.* v. *United States*, 903 F. Supp 89 (CIT 1995) (*Nippon*), the CIT, applying the same reasoning as in *Persico,* stated that ''if Commerce were required to use the small portion of the requested information that Nippon submitted, there would be no incentive for Nippon to provide Commerce with complete information since the submission of partial information would result in a decreased dumping margin.'' See *Nippon* at 95.

In the instant case, the partial information submitted by Kawasaki allegedly demonstrates that KMM's imports met the requirements of the ''Roller Chain'' principle. If we were to take this information into account, as Kawasaki argues, Kawasaki's assessment rate would be reduced and duties would not be assessed on a significant portion of its TRBs entries. As a result, this uncooperative respondent, who refused to provide the information necessary for us to conduct an analysis, would actually benefit from its refusal to provide the Department with a complete response. In this way, we would encourage Kawasaki to selectively disclose only that information which would benefit its position, and control over the proceedings would effectively move from the Department to the respondent. Furthermore, because Kawasaki was an uncooperative respondent to which we assigned a first-tier total adverse BIA rate in the reviews of both TRBs cases, there was no basis on which to verify the limited information Kawasaki submitted. Therefore, given Kawasaki's uncooperativeness, we have no basis upon which to conclude that the limited information in Kawasaki's partial submission is accurate and reliable. For these reasons we disagree with Kawasaki that, because information on the record allegedly demonstrates that KMM's entries of TRBs were subject to the ''Roller Chain'' principle, we have an obligation to take that information into account for assessment purposes. Rather, we will assess duties for Kawasaki in both the TRBs cases at rates equivalent to the first-tier total BIA rates we assigned to Koyo for these final results.

Comment 6: Fuji argues that the Department failed to make a difference-in-merchandise (difmer) adjustment when it compared Fuji's U.S. TRBs to most similar, rather than identical, home market TRBs. Fuji asserts that because it is a reseller, the acquisition costs it provided to the Department are its variable costs and the Department should calculate a difmer adjustment based on the difference in acquisition costs between U.S. merchandise and the non-identical comparison home market merchandise.

While Timken does not object to the Department making a difmer adjustment for Fuji based on Fuji's acquisition costs, Timken contends that the computer programming language Fuji included in its brief demonstrating how the Department should incorporate the adjustment into Fuji's computer program is deficient because it applies the adjustment to comparisons of identical U.S. and home market merchandise and does not properly convert the adjustment from yen to U.S. dollars.

Department's Position: We agree with Fuji that a difmer adjustment is warranted and have based that adjustment on the difference in Fuji's reported acquisition costs. However, we also agree with Timken that Fuji's suggested programming language is deficient. Therefore, we have incorporated the difmer adjustment into our computer program for Fuji by using computer programming language which ensures that the adjustment is (1) only applied to comparisons between U.S. merchandise and the most similar, rather than identical, home market merchandise, and (2) is properly converted from yen to U.S. dollars.

Comment 7: Fuji argues that because it is a reseller which does not have access to the variable costs of manufacturing (VCOM) and total costs of manufacturing (TCOM) of the TRBs it resells in the U.S. and home markets, it agrees with the Department's use of its acquisition costs as the basis for the 20 percent difmer test. Fuji contends that in those cases where VCOM and TCOM are available, the Department allows non-identical home market models to be included within the pool of potential home market matches if the difference in the VCOMs between the U.S. and home market models is less than 20 percent of the U.S. model's TCOM. In other words, Fuji states, the Department uses the U.S. model's costs as the benchmark for its comparison. However, Fuji asserts, rather than use the U.S. model's acquisition cost as the benchmark for the 20 percent difmer test the Department conducted for Fuji, the Department incorrectly used the home market model's acquisition costs as the basis for the 20 percent difmer comparison.

Department's Position: We agree with Fuji. In our margin calculation computer program for Fuji we inadvertently used programming language which incorrectly applied the 20 percent difmer test. We have corrected this error for these final results.

Comment 8: Fuji argues that the Department's 99.5 percent arm's-length test, in which it calculates home market customer-specific weighted-average related/unrelated price ratios and excludes from its margin calculations all sales to a home market customer if its ratio is not greater than 99.5 percent, is too restrictive and inappropriately rejects bona fide sales to related home market customers that are made at the same prices as sales to unrelated home market customers. Fuji asserts that, even though it sold from the same price list at the same prices to all home market customers during the POR for any given product during any given month, the Department's arm's-length test nevertheless resulted in the exclusion of a large percentage of its related customer sales from the Department's preliminary margin calculations.

For example, Fuji asserts that the Department's reliance on POR weighted-average prices results in the exclusion of related party sales simply because different quantities may have been purchased by a related party after a monthly price change took effect, even though the prices charged to related and unrelated customers during any given month were the same. In addition, Fuji contends that, even if the same number of units are sold to both the related and unrelated customer, all sales to the related customer will fail the test even if a majority of the sales to the related customer during the POR were priced higher than the sales of the identical product to the unrelated customer.

Fuji claims that, to avoid these inaccuracies, the Department should adopt a new arm's-length test in which individual transactions to related customers are determined to be at arm's length unless the prices to the related customer deviate from the weighted-average prices to unrelated customers by more than two standard deviations. Fuji asserts that this method not only better reflects commercial reality, but it eliminates abnormally high and low priced sales while still ensuring that only those related-customer sales prices which are statistically comparable to unrelated-party sales prices are included in the Department's margin calculations.

Fuji further asserts that, if the Department does not adopt this new test, it should at least modify its existing arm's-length test such that it would use the same methodology, but apply it on a monthly, rather than a POR, basis. Fuji explains that if the Department compares the average monthly weighted-average price of a product sold to an related customer to the monthly weighted-average sales prices of the same product to an unrelated customer, it would capture the fact that Fuji's monthly average sales prices to related and unrelated customers are the same. In this way, Fuji concludes, the Department will avoid the arbitrary results produced by its current test and correctly include within its margin calculations those sales to related home market customers which were clearly at arm's length.

Timken argues that Fuji's arguments are hypothetical in nature and fail to demonstrate that the Department's methodology actually produced distortive results. In addition, Timken asserts, given that the Department employed a reasonable methodology, there is no basis for the Department to change it's arm's-length analysis. Finally, Timken states that it is the Department, and not an interested party, who makes the determination as to what methodology should be used (*NTN Bearing Corp.* v. *United States,* 747 F. Supp. 726 (CIT 1990)).

Department's Position: We agree with Timken. While Fuji argues that our 99.5 percent arm's-length test produces arbitrary results, it failed to provide a single example from its own data supporting its assertions. Fuji presents only theoretical examples of why the arm's-length test is distortive and we have no basis upon which to conclude that our test is unreasonable. Furthermore, not only is our 99.5 percent arm's-length test methodology well established (see, e.g., *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review,* 61 FR 15772 (April 9, 1996)), but the CIT has repeatedly sustained this methodology (see e.g., *Usinor Sacilor* v. *United States,* 872 F. Supp. 1000 (CIT 1994) (*Usinor*), *Micron* Technology, Inc. v. *United States,* 893 F. Supp. 21 (CIT 1995) (*Micron*), and *NTN Bearing Corp. of America, Inc.* v. *United States,* 905 F. Supp. 1083 (CIT 1995)). Consistent with our view that a party must provide evidence of distortion in order for us to verify its allegations that our arm's-length test is distortive, in *Usinor* the CIT specifically stated that ''[g]iven the lack of evidence showing any distortion of price comparability, the court finds the application of Commerce's arm's-length test reasonable.'' See *Unisor* at 1004. Likewise, in *Micron,* because the CIT found that the plaintiff/respondent failed to ''demonstrate that Commerce's customer-based arm's length test inquiry is unreasonable'' and failed to ''point to record evidence which tends to undermine Commerce's conclusion,'' the CIT sustained the 99.5 percent arm's-length test based on the lack of evidence showing a distortion of price comparability (see *Micron* at 45–46).

Therefore, for these final results we have not altered our 99.5 percent arm's-length test for Fuji, and have continued to apply the test as we have in other cases upheld by the CIT and as we did in our preliminary results.

Comment 9: Fuji contends that, because it changes its home market prices only at the beginning of a month, the Department's use of annual weighted-average home market prices fails to capture the monthly fluctuations in its prices. Therefore, Fuji asserts, the Department should calculate monthly weighted-average home market prices. Fuji contends that not only would this change be a minimal burden on the Department, but such a change would ensure greater accuracy in the Department's margin calculations for Fuji. Fuji further asserts that, if the Department chooses not to rely on monthly weighted-average home market prices, it should at least calculate semiannual home market weighted-average prices based on the two periods within the POR which reflect the timing of Fuji's price changes.

Timken argues that not only did the Department conduct a detailed analysis which demonstrated that Fuji's home market prices were stable over the POR such that the calculation of annual weighted-average home market prices was reasonable, but there is no evidence on the record indicating that the use of monthly weighted-average home market prices for Fuji would be more accurate or reasonable than annual weighted-average prices.

Department's Position: We agree with Timken. Pursuant to the law in effect prior to January 1, 1995, although it is our normal practice to calculate monthly weighted-average home market FMVs, it has been our established practice in TRBs reviews to conduct a three-step price stability test in order to determine if a respondent's pricing practices in the home market were sufficiently stable throughout the POR such that we may reasonably calculate annual weighted-average home market FMVs. (see, e.g., *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 (December 16, 1991) (*054 TRBs 88–89*), and *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 26054 (June 6, 1991) (*054 TRBs 87–88*)). We began this practice in an effort to simplify our TRBs calculations which involve extremely large data bases and complex, time-consuming analysis.[1] Although Fuji's 1993–94 databases were less voluminous than other respondents' databases, the amount of data Fuji submitted, as well as the overall complexity of the analysis we conducted for Fuji, prompted us to determine if annual weighted-average FMVs were appropriate for our calculations. Therefore, consistent with section 777A of the Act, we determined whether the use of annual weighted-average FMVs was appropriate by performing our established three-step price stability test. First, we compared the annual/POR weighted-average home market price for each home market TRB model with each of the model's 12 monthly weighted-average prices during the POR. We then calculated the proportion of each model's sales for which the annual weighted-average price did not vary more than plus or minus 10 percent from the monthly weighted-average prices. Second, we compared the volume of sales of all models for which annual weighted-average prices did not vary more than plus or minus 10 percent from the monthly weighted-average prices with the total volume of sales of TRBs. Because the annual weighted-average price of at least 90 percent of Fuji's home market TRBs sales did not vary more than plus or minus 10 percent from the monthly weighted-average prices, we considered Fuji's annual weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between price and time for each model by calculating a Pierson coefficient. Because the correlation coefficient we calculated for Fuji was less than 0.05 (where a coefficient approaching 1.0 indicates a direct correlation between price and time), we concluded that there was no significant relationship between price and time.

Because this three-step analysis demonstrated that over 90 percent of Fuji's annual weighted-average prices were within 10 percent of its monthly weighted-average prices and that there was no relationship between Fuji's pricing practices and time, we concluded that Fuji's home market pricing practices were sufficiently stable over time such that annual FMVs were representative of home market prices.

Therefore, while Fuji argues that monthly weighted-average FMVs would be more accurate, our analysis and all the evidence on the record indicate that our use of annual weighted-average FMVs for Fuji produced accurate and reliable results.

We also disagree with Fuji that we should, at a minimum, rely on FMVs based on certain semiannual weighted-averages. Since we have confirmed that annual weighted-average FMVs will not differ significantly from monthly weighted-average FMVs, we have no reason to suspect that annual weighted-average FMVs would differ significantly from weighted-average FMVs calculated on a greater-than-one-month or semiannual basis. Furthermore, Fuji has provided no evidence supporting its contention that its proposed semiannual weighted-average FMVs would produce results more accurate than those we achieved by using annual weighted-average FMVs. Therefore, we have continued to rely on annual weighted-average FMVs for Fuji for these final results.

Comment 10: In its responses for both the 1992–93 and 1993–94 reviews, Koyo reported four different categories of sales in the home market: (1) sales to original equipment manufacturers (OEM) for the OEM market, (2) sales to OEM customers for the after-market (AM), (3) sales to AM customers for the OEM market, and (4) sales to AM customers for the AM market. In order to determine whether any of these four categories of sales represented distinct levels of trade (LOT), we conducted an analysis in which we calculated and compared the weighted-average prices for each category in order to determine if patterns of pricing differences existed between these categories. Based on our analysis we concluded that sales in category 1 clearly represented an OEM LOT while sales in category 4 clearly represented an AM LOT. However, because sales within categories 2 and 3 did not clearly reflect distinct LOTs, we examined whether sales in these two categories were more appropriately defined as within the category 1 OEM LOT or the category 4 AM LOT. Based on further analysis we concluded that sales in category 2 were most similar to those in category 1 and sales in category 3 were most like the sales in category 4. Therefore, we collapsed sales categories 1 and 2 into one OEM LOT and sales within categories 3 and 4 into one AM LOT.

Koyo contends that, in all its questionnaire responses since the 1990–92 TRBs reviews (where the Department

[1] For example, if our three-step price stability test reveals that price variations have no relation to time, we eliminate from our multiple searches for contemporaneous home market such or similar merchandise. This results in a dramatic simplification of the highly complex TRBs sum-of-the-deviations model-match methodology and ensures less errors in computer programs and margin calculations.

first recognized the complexity of the bearing distribution system), it has explained its distribution system and identified the identical four home market sales categories as in these 1992–93 and 1993–94 reviews. Koyo states that in the most recently completed final results for Koyo (the 1990–92 TRBs reviews), the Department determined that category 1 was the OEM LOT, and collapsed categories 2, 3, and 4 into a single AM LOT. Koyo asserts that because (1) no party ever objected to the Department's determination and (2) Koyo has not changed its distribution system or its explanation of this system for these reviews, there is no reason for the Department to change its LOT identification for these 1992–93 and 1993–94 reviews.

Koyo also argues that the Department's LOT analysis was flawed because the Department relied on an over-inclusive pool of sales when calculating the weighted-average prices it used to identify Koyo's home market LOTs. Koyo asserts that the Department calculated weighted-average prices for categories 1, 2, 3, and 4 by including all models sold rather than eliminating from the calculation those models sold only in a given category but not sold to the category being compared. As a result, Koyo contends, the Department's analysis is distorted. Based on its own analysis Koyo argues that, by removing from the calculation of each category's weighted-average price those sales of models which were sold only in that category, the comparison of the revised weighted-average prices for each category reveals that categories 2 and 3 are most similar to category 4, and categories 2, 3, and 4 are distinctly different from category 1. Therefore, Koyo concludes, the Department should have collapsed categories 2, 3, and 4 into a single AM LOT and treated category 1 as the distinct OEM LOT.

Timken argues that the elaborate analysis Koyo presented in its comments is flawed because it lacks any support on the record explaining why sales have been put into sub-categories within the OEM and AM LOTs. Timken asserts that, absent an explanation as to why there should be distinctions within the OEM and AM LOTs, Koyo's analysis is nothing more than a *post-hoc* rationalization of its original, unsupported LOT designations. Timken concludes that, regardless of any possible flaws in the Department's analysis, given the lack of information on the record, the Department should continue to categorize categories 1 and 2 as a single OEM LOT and categories 3 and 4 as a single AM LOT.

Department's Position: We agree in part with both the petitioner and the respondent. As explained above, in its 1992–93 and 1993–94 responses Koyo claims two distinct LOTs in the home market, an OEM LOT and an AM LOT. However, Koyo reported four separate home market categories of sales based on the customer category (OEM or AM) and market in which the sale was made (OEM or AM). Because Koyo's response lacked both a detailed explanation of these four subgroups and an explanation whether these four subgroups represented distinct LOTs, we determined that it was necessary to conduct a detailed analysis using Koyo's reported home market pricing data to identify any pricing patterns and determine whether these categories reflected distinct LOTs. As also indicated above, our analysis revealed that four separate LOTs did not exist, and we concluded that certain categories of sales should be collapsed into two separate LOTs. Therefore, we agree with Timken that Koyo's responses lacked the information necessary to demonstrate four distinct LOTs. However, we disagree with Timken that Koyo's comments and analysis are an attempt to argue that four separate LOTs exist. Rather, in its comments Koyo only asserts that inherent flaws in the Department's LOT analysis resulted in the Department's improper combining of category 1 sales with category 2 sales and category 3 sales with category 4 sales.

In light of Koyo's comments we have reexamined our LOT analysis for Koyo in both the 1992–93 and 1993–94 reviews and have determined that the computer analysis we used to identify Koyo's home market LOTs produced accurate and reliable results. For example, we began our analysis by calculating an overall weighted-average price for each of Koyo's four categories and compared these prices to one another. We relied on this comparison as a means to ascertain the general pricing trends that existed between Koyo's categories such that we would have some basis upon which to proceed with a more detailed model-specific comparison. In other words, while this macro-comparison did allow us to draw some general conclusions, we recognized that it was not detailed enough to provide conclusive results concerning each category and its relationship, if any, to the other three categories. Therefore, in order to identify Koyo's LOTs and resolve the issue of whether categories 2 and 3 reflected distinct and separate LOTs or were more like category 1 or 4 such that they should be collapsed with category 1 or 4 in some way, we conducted a model-specific analysis in which we calculated and compared the model-specific weighted-average prices for each model sold in each category. For example, we compared the model-specific weighted-average prices for each model sold in categories 1 and 2, 1 and 3, 3 and 4, and 2 and 4. In doing so, we compared only the weighted-average prices for those models which were sold in two categories. For example, when we compared the pricing practices between categories 1 and 2, we only compared the prices for models sold to both categories 1 and 2. As a result, contrary to Koyo's assertion, we did not rely on our macro-comparison as the basis of our overall LOT determinations and we did not base our analysis on an over-inclusive pool of models. Rather, we conducted a more detailed model-specific analysis in which we excluded from our comparisons those models which were not sold in both of the categories being compared. Therefore, we disagree with Koyo that our analysis was inherently flawed.

However, while we have concluded that our computer analysis was accurate and reliable, we have discovered that, when we interpreted the results of this analysis in our preliminary results, we misidentified Koyo's four categories. This led to us draw incorrect conclusions concerning the manner in which Koyo's categories were to be combined for LOT purposes. Therefore, for these final results we have properly identified Koyo's categories and have reexamined the results of our LOT analysis. Based on our reexamination of our model-specific comparisons we have concluded that our original determination that categories 1 and 4 were distinct from each other and reflected separate OEM and AM LOTs was correct. Furthermore, we have concluded that there is a clear pattern of pricing differences between categories 1 and 2 and categories 1 and 3 such that we cannot consider sales in categories 2 and 3 to be at the same LOT as category 1. In addition, our reexamination of our comparisons between categories 2 and 4 and categories 3 and 4 reveal that there is no distinct pattern of pricing differences between categories 2 and 4 and categories 3 and 4 such that we could consider sales in categories 2 and 3 as at a separate LOT than category 4. Therefore, we agree with Koyo that we improperly collapsed its home market sales categories in our preliminary results of review. As a result, for these final results we have collapsed categories 2, 3, and 4 into one distinct AM LOT and treated category 1 as the OEM LOT.

2. Comments Concerning Adjustments to United States Price (USP)

Comment 11: Timken argues that it is not clear why NTN did not report its U.S. credit expenses on a transaction-specific basis and, based on its own analysis, claims that NTN has under-reported these credit expenses.

NTN argues that not only has it consistently reported its U.S. credit expenses on a customer-specific basis, but the Department has consistently accepted NTN's methodology in all past reviews. NTN states that Timken has provided no evidence indicating that NTN's customer-specific methodology is unreasonable, and is only attempting to persuade the Department to adopt a position which would yield the results that Timken wants.

Department's Position: We disagree with Timken. While we prefer to have credit calculated on a transaction-specific basis, when there is a massive number of transactions in a review, we generally will not require the respondent to calculate and report individual credit costs for each transaction. Rather, when there is a voluminous number of transactions involved, we permit a respondent to report credit calculations based on the average credit days outstanding on a customer-specific basis. This has been upheld by the CIT (see, e.g., *The Torrington Company* v *United States*, 818 F. Supp 1563 (CIT 1993)), and is in accordance with our established practice (see, e.g., *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Administrative Review*, 56 FR 31692 (1991)).

Given the massive number of transactions NTN has reported in this review, we have allowed NTN to report its U.S. credit expenses on a customer-specific basis. Furthermore, not only have we allowed NTN to report its credit expenses on a customer-specific basis in all previous TRBs reviews, but NTN has explained in past reviews that it derived its customer-specific credit ratio based on information directly from its accounts receivables ledgers concerning the average number of days payment was outstanding for each of its customers. As such, NTN's reported credit amounts are based on a customer's actual payment information as maintained in NTN's books and records (see, e.g., *TRBs 92–93* at 57637)). We have verified this method in previous reviews, and, because there is no evidence that NTN has changed its methodology for this review, we are satisfied that NTN has again reported U.S. credit expenses which are derived directly from actual customer payment information. Therefore, we have not altered our treatment of NTN's U.S. credit expenses for these final results.

Comment 12: Timken argues that, because it appears on the record that NTN USA is some form of holding company which provides support to its wholly-owned subsidiaries, some portion of NTN USA's expenses should be allocated to sales of subject merchandise. Therefore, Timken contends, the Department should increase the pool of U.S. indirect selling expenses by a portion of NTN USA's general and administrative expenses.

NTN argues that, because these G&A expenses are not provided for, as Timken suggests, NTN USA's expenses should not be allocated to sales of subject merchandise.

Department's Position: We disagree with Timken. The record indicates that those expenses incurred by NTN USA on behalf of the various NTN U.S. subsidiaries are already included in NTN's reported U.S. indirect selling expenses. Therefore, there is no basis to recalculate NTN's reported U.S. indirect selling expenses to account for those expenses incurred by NTN USA.

Comment 13: Timken asserts that, because there is no evidence on the record justifying the various adjustments NTN made to the pool of U.S. indirect selling expenses it reported to be deducted from USP, the Department should not allow these adjustments, and should include the adjustment amounts in the total amount of U.S. indirect selling expenses deducted from USP.

NTN states that, because its reporting of its U.S. indirect selling expenses has remained consistent throughout all TRBs administrative reviews to date and because the Department has consistently accepted this reporting methodology, the Department should disregard Timken's contentions and again allow NTN to make the adjustments at issue to its reported U.S. indirect selling expenses.

Department's Position: We agree with NTN. We have examined certain of these adjustment's in previous verifications of NTN without discrepancy (see *TRBs 90–92* at 64726) and, absent evidence from Timken supporting its contention that these adjustments are unreasonable, we have no reason to reject them for these final results.

Comment 14: Timken contends that NTN's adjustment to its U.S. indirect selling expenses for a certain interest expense amount should not be allowed because there is no explanation on the record of what this amount represents, what it is attributable to, or why it should be removed from the pool of U.S. indirect selling expenses to be deducted from USP.

NTN states that both the Department and Timken are well aware that the interest expense in question reflects those interests expenses NTN incurred in regard to antidumping duty cash deposits. NTN contends that, just as antidumping duties are not a basis for adjustment to USP, the costs related to them should also not be the basis for an adjustment to USP.

Department's Position: We agree with Timken that we should deny an adjustment to NTN's U.S. indirect selling expenses for expenses which NTN claims are related to financing of cash deposits.

The statute does not contain a precise definition of what constitutes a selling expense. Instead, Congress gave the administering authority discretion in this area. It is a matter of policy whether we consider there to be any financing expenses associated with cash deposits. We recognize that we have, to a limited extent, removed such expenses from indirect selling expenses for such financing expenses in past reviews of this finding, this order, and other orders. However, we have reconsidered our position on this matter and have now concluded that this practice is inappropriate. Further, we note that the Court's affirmance of our prior policy does not preclude us from following this new, reasonable policy.

We have long maintained, and continue to maintain, that antidumping duties, and cash deposits of antidumping duties, are not expenses that we should deduct from U.S. price. To do so would involve a circular logic that could result in an unending spiral of deductions for an amount that is intended to represent the actual offset for the dumping (see, e.g., *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 II*)). We have also declined to deduct legal fees associated with participation in an antidumping case, reasoning that such expenses are incurred solely as a result of the existence of the antidumping duty order (see *AFBs II*). Underlying our logic in both these instances is an attempt to distinguish between business expenses that arise from economic activities in the United States and business expenses that are direct, inevitable consequences of an antidumping duty order.

Financial expenses allegedly associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. Money is fungible. If an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. Companies may choose to meet obligations for cash deposits in a variety of ways that rely on existing capital resources or that require raising new resources through debt or equity. For example, companies may choose to pay deposits by using cash on hand, obtaining loans, increasing sales revenues, or raising capital through the sale of equity shares. In fact, companies face these choices every day regarding all their expenses and financial obligations. There is nothing inevitable about a company having to finance cash deposits and there is no way for the Department to trace the motivation or use of such funds even if it were.

In a different context, we have made similar observations. For example, we stated that ''debt is fungible and corporations can shift debt and its related expenses toward or away from subsidiaries in order to manage profit'' (see *Ferrosilicon from Brazil*, 61 FR at 59412 (regarding whether the Department should allocate debt to specific divisions of a corporation)).

So, while under the statute we may allow a limited exemption from deductions from U.S. price for cash deposits themselves and legal fees associated with participation in dumping cases, we do not see a sound basis for extending this exemption to financing expenses allegedly associated with financing cash deposits. By the same token, for the reasons stated above, we would not allow an offset for financing the payment of legal fees associated with participation in a dumping case.

We see no merit to the argument that, since we do not deduct cash deposits from U.S. price, we should also not deduct financing expenses that are arbitrarily associated with cash deposits. To draw an analogy as to why this logic is flawed, we also do not deduct corporate taxes from U.S. price; however, we would not consider a reduction in selling expenses to reflect financing alleged to be associated with payment of such taxes.

Finally, we also determine that we should not use an imputed amount that would theoretically be associated with financing of cash deposits. There is no real opportunity cost associated with cash deposits when the paying of such deposits is a precondition for doing business in the United States. Like taxes, rent, and salaries, cash deposits are simply a financial obligation of doing business. Companies cannot choose not to pay cash deposits if they want to import nor can they dictate the terms, conditions, or timing of such payments. By contrast, we impute credit and inventory carrying costs when companies do not show an actual expense in their records because companies have it within their discretion to provide different payment terms to different customers and to hold different inventory balances for different markets. We impute costs in these circumstances as a means of comparing different conditions of sale in different markets. Thus, our policy on imputed expenses is consistent; under this policy, the imputation of financing costs to actual expenses is inappropriate.

Comment 15: In its response NTN reported that it paid commissions to NBCA for certain purchase price sales. In addition, NTN indicated that NBCA incurred other expenses associated with the services it provided with regard to these purchase price sales. In our preliminary results we determined that it was necessary to determine the arm's-length nature of these related-party commissions by comparing the related-party commission rate to those commission rates NTN reported it paid to unrelated U.S. commissionaires. However, because the record did not explicitly indicate the related-party commission rate, we attempted to calculate this commission rate based on data NTN provided in exhibit B–8 of its response. In exhibit B–8 NTN demonstrates its calculation of NBCA's total U.S. indirect selling expenses for all merchandise (both scope and non-scope), as well as its allocation of these total expense amounts to scope and non-scope merchandise. In addition, it is important to note that the purpose of this exhibit was for NTN to calculate the indirect selling expense NBCA incurred for its reported U.S. exporter's sales price (ESP) sales. Because the expenses NBCA incurred in relation to those services it provided for certain purchase price sales were not expenses NBCA incurred in association with its ESP sales, NTN removed these expenses from its reported total NBCA expenses in exhibit B–8 by making a downward adjustment to specific total expense accounts. These downward adjustments were clearly identified in exhibit B–8 as related to those expenses incurred by NBCA for certain purchase price sales. Based on these reported downward adjustments we calculated a total commission amount and divided this by the total sales value of NTN's TRB purchase price sales, which we derived directly from NTN's U.S. computer sales file. We considered the resulting ratio the related-party commission rate and, upon comparing it to the commission rates NTN reported it had paid to unrelated U.S. parties, we determined the related-party commission not to be at arm's length. Therefore, we treated it as an indirect selling expense and adjusted for it accordingly in margin calculations for purchase price sales.

NTN argues that, while it agrees with the Department's disregarding the related-party commission, the Department's additional arm's-length analysis was unnecessary because, in accordance with the Department's practice, related-party commissions are treated as intra-company transfers of funds and, as such, are not proper adjustments to price. NTN further claims that, while the Department should not have conducted an arm's-length analysis, it is nevertheless important for the Department to recognize that it made two errors when calculating the related-party commission rate. First, NTN asserts, the Department relied on a numerator which reflected all expenses incurred by NBCA for the services it provided for certain purchase price sales, rather than on a numerator which reflected only the related-party commission NBCA was paid. Second, NTN argues, even if the Department had used the correct numerator, the calculation would still be incorrect because the Department used a denominator which reflected only scope merchandise. NTN asserts that exhibit B–8 clearly indicates that the downward adjustments for purchase price sales reflected all merchandise, not only TRBs. As a result, because the numerator for the calculation would reflect both scope and non-scope merchandise, the Department should have used a denominator which reflected NTN's purchase price sales of all merchandise, rather than only the purchase price sales of TRBs. In order to further demonstrate its point, NTN reported its actual related-party commission rate and referred to the difference between this rate and the one calculated by the Department.

Timken argues that NTN seeks to alter the Department's judgment regarding these related-party commissions by supplementing the record with new factual information. Timken asserts that NTN has reported for the first time its actual related-party commission rate and has indicated for the first time that the downward adjustments it made in exhibit B–8 for those expenses NBCA incurred for services it provided for certain purchase price sales reflect both scope and non-scope merchandise. Therefore, Timken asserts, the Department should reject this untimely information and disregard NTN's arguments.

Department's Position: Based on Timken's assertion that NTN's brief contained new information, we reviewed the information and preliminarily concluded that it most likely constituted new factual information. Therefore, at the August 21, 1996 hearing, we explained our position to the parties and requested that NTN and Timken refrain from discussing the information in question. Based on the objections raised by NTN at the hearing and the fact that we had yet to make a final decision regarding the nature of the information in question (*i.e.*, we had not yet officially rejected or returned the information to NTN), we reopened the record on the issue and provided both NTN and Timken additional time to comment on the issue of whether the information in question constituted new information which should be rejected and not considered by the Department. The additional comments submitted by NTN and Timken, our final determination concerning the issue of new information, and our position on the related-party commission issue are discussed in Comment 16 below.

Comment 16: NTN argues that the Department's decision to disallow discussion of the related-party commission issue at the hearing was not only unwarranted, but, because it prevented NTN from sufficiently making its case, it served to render the administrative review process useless. NTN also asserts that, because the Department failed to communicate coherently which information in NTN's case brief it had rejected, NTN was only able to surmise which information was in question. NTN further asserts that, regardless of what the specific information is, it is its contention that none of the information contained in its pre-hearing case brief can be considered new factual information. For example, NTN claims, even a brief review of exhibit B–8 reveals that the numerator used by the Department in its calculation reflected all expenses incurred by NBCA for services it provided for certain purchase price sales, rather than only the commission amount. NTN contends that this is demonstrated by the fact that the Department's numerator corresponds to the sum of all the expenses (i.e., the total amount of downward adjustments for these purchase price-related NBCA expenses) as identified on worksheet 4 of exhibit B–8. As a result, NTN concludes, there is no way the numerator used by the Department could be considered as reflective of only a commission amount.

NTN further argues that the Department has verified that the downward adjustments made in exhibit B–8 reflect expenses incurred for all merchandise, both scope and non-scope. Therefore, NTN claims, because the adjustments clearly reflect all merchandise, rather than only TRBs, it is patently absurd for the Department to now claim that it did not realize this.

As for the related-party commission rate NTN reported in its case brief, NTN contends that it was never instructed by the Department to report this rate in this review or any other previous TRBs review. In fact, NTN claims, it only submitted this rate in its brief in an effort to point out the inaccuracy of the Department's calculation. NTN asserts that, to refuse to accept this corrected figure, which the Department was attempting to calculate itself, is arbitrary and capricious.

In addition, NTN argues, one of the primary purposes of the pre-hearing briefing process is to allow respondents to address methodologies and correct clerical errors. NTN asserts that not only was the information in question clearly not new information, but it is apparent that NTN submitted the information in order to correct the Department's clerical errors. Citing *NTN Bearing Corp*. v. *United States*, Slip Op. 94–1186 (Fed. Cir. 1995) and *Koyo Seiko* v. *United States*, 14 CIT 680 (CIT 1990), NTN asserts that, because the Department has an obligation to correct errors which are timely identified by a respondent and because fair and accurate determinations are fundamental to the proper administration of the antidumping laws, the Department cannot simply reject the information in question. Rather, NTN urges the Department to either reconvene the hearing to allow comments on the related-party commission issue or allow NTN to submit the comments it was prevented from making at the August 28, 1996 hearing.

Timken argues that the Department could draw only one conclusion from the information NTN provided in exhibit B–8 concerning the expenses NBCA incurred when providing services for certain purchase price sales. Therefore, Timken asserts, because the additional information NTN provided in its case brief provides a different interpretation of exhibit B–8, the Department should reject the new information and not change how it treated NTN's related-party commissions.

Department's Position: We both agree and disagree in part with NTN. First, it is important to clarify that, while we indicated to NTN and Timken at the hearing that we considered certain information in NTN's case brief to constitute new factual information, we did not consider this to be our final decision on the issue. For example, we did not, in accordance with 19 CFR 353.31(3), officially reject and return the information in question to NTN at any time prior to the hearing. Rather, we decided that the hearing was the appropriate forum for explaining our initial determination and to determine whether the issue required additional examination and/or comment. Due to the controversy surrounding the issue at the hearing, we decided that, in order to make a reasonable and equitable decision, we would allow additional comment and discussion. Therefore, we reopened the record on this issue and provided both NTN and Timken time to submit additional argument and rebuttal concerning the nature of the information in question. Given that we never officially rejected and returned the information in question and that we reopened the record to allow further examination, we disagree with NTN that we arbitrarily made a final decision on this issue without providing NTN proper notice.

We also disagree with NTN that our decision to disallow discussion of the new information at the hearing undermined the administrative review process and prevented NTN from adequately presenting its position. While we acknowledge that we did not allow NTN and Timken to specifically discuss this new information at the hearing, this only prevented NTN from discussing the more detailed points of its position. It did not, in any manner, prevent NTN from voicing its assertion that the calculation was inaccurate, from objecting to the Department's treatment of the related-party commission, or from asserting that the additional analysis we performed concerning the commission was unwarranted. Furthermore, while NTN may not have been able to address the detailed points of its position at the hearing, it nevertheless fully briefed these specific points in its pre-hearing briefs. Given that parties to a hearing, in accordance with 19 CFR 353.38, may only discuss at the hearing that which has already been presented in their written briefs, both the Department and Timken were fully aware of NTN's specific arguments upon receipt of its brief and no party would have been permitted to provide any additional, new arguments at the hearing. In addition, since most of the information at issue was identified as proprietary by NTN, no party (NTN, Timken or the Department) would have been able to discuss the information at the hearing regardless of our decision to disallow its discussion. Furthermore, by reopening the record, we clearly provided NTN with the opportunity to make any additional arguments to support its position. Thus, we do not agree that NTN had no opportunity to present its case.

We also disagree with NTN that we never clarified which information in its case brief we considered to be new information. Because Timken's case brief clearly identified that information which it alleged to be new information, NTN was on notice of the fact that the issue of whether the information in question is new might be addressed in the course of the hearing. In addition, immediately following the hearing Department officials discussed with NTN the new information issue to ensure that NTN understood the parameters of the additional comments we requested at the hearing. Thus, at this time NTN had every opportunity to request clarification where necessary. Furthermore, our reopening of the record regarding this issue provided NTN with an additional opportunity and additional time to request clarification or explanation.

Therefore, we disagree with NTN's assertions that we mistreated NTN and failed to extend NTN the opportunity to fully state its position and/or to participate in the administrative review proceeding. However, we do agree with NTN that the additional analysis we conducted in our preliminary results, in which we found it necessary to calculate a related-party commission rate, was unnecessary. We also agree with NTN that certain information we initially deemed as new factual information was not actually new information.

It has been the Department's practice to treat NTN's related-party ''commissions'' for certain purchase price sales as intra-company transfer of funds which are not an allowable adjustment to price (see, e.g., *AFBs 93–94* at 66489). Thus, it has been our practice not to include these ''commissions'', the transfer payment between NTN and NBCA, in our analysis. Rather, we have consistently taken into account the actual expenses which NBCA incurred with respect to these purchase price sales and, based on our determination that these expenses are those that we typically consider to be indirect expenses incurred by sales organizations, we have treated these expenses as indirect selling expenses and made the appropriate adjustment for these expenses in our purchase price margin calculations for commission offset purposes (see id.).

In light of our past treatment of NTN's related-party commission, and the fact that the record in this review contains no evidence which would support a change in this treatment, we have determined for these final results that it was unnecessary for us to calculate NTN's related-party commission rate. Rather, we have determined that, in accordance with our previous policy regarding NTN's related-party commission, the appropriate adjustment is not to consider NTN's intra-company transfers as commissions or direct selling expenses, but rather to consider as indirect selling expenses those expenses which NBCA incurred for those services it provided for certain purchase price sales. Because NTN's claimed U.S. related-party ''commissions'' are not a proper basis for a COS adjustment, the actual calculation of NTN's related-party commission rate is irrelevant to our treatment of the related-party commission and those expenses NBCA incurred for those services it provided for certain purchase price sales. Given the fact that all the information Timken alleged to be new in NTN's brief addressed the inaccuracies in our attempt to calculate NTN's related-party commission rate, the new information issue is moot with regard to our commission rate calculation.

However, because Timken did allege that NTN's brief contained new information concerning the nature of the expenses NBCA incurred in relation to certain purchase price sales, and because it is these expense amounts that we consider in our margin calculations, we have determined that the new information issue is relevant with regard to our adjustment for these expenses. Therefore, for these final results we have examined the record in order to determine whether the fact that both scope and non-scope merchandise are reflected in NTN's exhibit B–8 downward adjustments for these purchase price-related expenses is new information and whether there are any inaccuracies in NTN's exhibit B–8 which would cast doubt on the reliability of these reported purchase price-related expense amounts.

As indicated earlier, NTN reported and allocated indirect selling expenses incurred by NBCA for ESP sales. Because NBCA does not maintain separate records for the merchandise it sells, the initial, unadjusted expenses NTN reported in this exhibit reflect both scope and non-scope merchandise sold by NBCA. Prior to allocating these expenses to scope and non-scope merchandise NTN made a series of downward adjustments to the total expense amounts, including the downward adjustments for those expenses NBCA incurred with regard to purchase price sales. Based on our examination of exhibit B–8 for these final results, it is clear from the exhibit that the total unadjusted expenses reported by NTN reflect both scope and non-scope merchandise and that all downward adjustments NTN made to these total U.S. indirect selling expenses reflect both scope and non-scope merchandise. Therefore, we agree with NTN that the purchase price-related adjustments NTN claimed in exhibit B–8 clearly reflect both scope and non-scope merchandise, and that this fact is not new information. Furthermore, we have determined that NTN's removal of these expenses was warranted, given that the purpose of exhibit B–8 was to calculate ESP-related indirect selling expenses. We also find NTN's methodology for calculating and allocating these ESP-related indirect selling expenses to scope and non-scope merchandise was reasonable and non-distortive. NTN adjusted total expense amounts which reflected all merchandise by adjustments which also reflected all merchandise. Because it was only after the adjustments were made that NTN allocated the total expenses to scope merchandise, the fact that the adjustments reflected both scope and non-scope merchandise did not distort the allocation of these expenses to scope merchandise.

Therefore, based on the fact that the information NTN provided concerning NBCA's purchase price-related expenses was not new information, and the fact that there is no reason to doubt the nature of these expenses as reported by NTN, for these final results we have considered these expenses as indirect selling expenses in our purchase price margin calculations (for commission offset purposes), rather than making a COS adjustment for NTN's related-party ''commissions''.

Comment 17: Timken argues that the Department should recalculate Koyo's reported U.S. selling, general and administrative expenses (SG&A) to include those expenses incurred by American Koyo Manufacturing

Corporation (AKBMC), Koyo's U.S. manufacturing affiliate.

Koyo contends that AKBMC's G&A expenses are already included as an element of its reported further-processing expenses. Thus, Koyo argues, to include these G&A expenses in the pool of U.S. indirect selling expenses would obviously result in an impermissible double counting of AKBMC's G&A expenses.

Department's Position: We agree with Koyo. In our verification of Koyo's 1992–93 U.S. sales and further-manufacturing information we not only verified the accuracy of Koyo's reported U.S. SG&A expenses (see the Department's U.S. further-manufacturing verification report for Koyo dated September 8, 1995). Therefore, if we were to include AKBMC's G&A expenses in Koyo's U.S. indirect selling expenses, we would, in essence, be deducting these expenses from U.S. price twice. Therefore, we have not changed our treatment of AKBMC's G&A expenses for these final results.

Comment 18: Timken contends that Koyo's reported Japanese pre-sale freight expenses are misallocated because Koyo used an improper denominator in its allocation methodology. Timken argues that, because Koyo incurs these expenses for both domestic and export sales, but does not record the expenses separately for export and domestic sales, the expenses should be allocated equally to bearings sold domestically and abroad. However, Timken asserts, Koyo's allocation methodology instead results in greater *pro rata* amounts being allocated to domestic sales in comparison to export sales. Timken contends that this is due to the fact that Koyo's allocation denominator is the sum of a home market total sales value which reflects the total sales value to unrelated parties and a U.S. sales value which reflects the total transfer prices between related parties. Timken argues that, because these two total sales values represent different stages in the stream of commerce, the expenses are over-allocated to home market sales and under-allocated to U.S. sales. Timken suggests that one method to ensure an even allocation of the expenses would be to allocate them on the basis of the ratios of the home market and export sales to the total costs of sales. Timken concludes that, even if the Department does not choose this method, it still has an obligation to correct the allocation of these expenses such that they are evenly allocated to Koyo's domestic and export sales.

Koyo first argues that not only is its Japanese pre-sale freight allocation methodology well-established, but it has been repeatedly verified and accepted by the Department in numerous reviews of both the TRBs and AFBs cases. Next, Koyo argues that it allocated these expenses in the manner in which they were incurred. Koyo states that because the expenses, by definition, cannot be distinguished between the two markets, it calculated a single allocation ratio by dividing the total expense amount, which was incurred entirely by Koyo Japan, by Koyo Japan's total sales value for both the export and domestic markets, as taken directly from Koyo's financial reports. Third, Koyo asserts that Timken is incorrect in assuming that the denominator includes U.S. and home market total sales values at different stages. Koyo points out that the total home market sales value does not reflect only the total sales value to unrelated parties but also accounts for the total sales values to several related home market customers as well. Likewise, Koyo states, the entire export sales value is based not only on sales to its related affiliate in the United States, but includes all export sales, including sales to unrelated parties in third-country markets. As a result, Koyo concludes, the home market, U.S., and third-country sales values which constitute the denominator reflect a mix of sales to related and unrelated parties such that Koyo's allocation results in a fair ''apples-to-apples'' comparison.

Department's Position: We agree with Koyo. In general, when a respondent relies on an allocation to calculate its per-unit adjustment amounts, we require that allocation to reflect the manner in which the expenses were actually incurred (see, e.g., *TRBs 92–93* at 57635 and *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42848 (August 19, 1996)). In addition, we examine the respondent's allocation methodology to determine if there is internal consistency between the numerator and denominator and in the methodology as a whole. For example, if an expense is allocated on the basis of total sales value, as are the expenses at issue here, the expense amount (the numerator) and the total sales value (the denominator) should reflect the same pool of sales such that the total expense amount reported by the respondent is divided into the total value of the sales for which the expense was actually incurred. Likewise, the allocation ratio should be applied to the same sales price reflected in the denominator. For example, we would not accept the application of an allocation ratio to gross sales price if the denominator was calculated by totaling the value of all sales on the basis of a net price.

In the instant case, Koyo Seiko, the Japanese parent, incurred the pre-sale freight expenses at issue for all merchandise, whether destined for sale to the U.S., third-country, or home market. Because Koyo does not maintain its records such that it is able to calculate the total expense amount incurred for each market, it was unable to separately calculate the specific pre-sale freight expenses attributable to each market. Therefore, Koyo used as its allocation numerator the total expense amount incurred by Koyo Seiko for all merchandise, as derived from Koyo Seiko's sales records. The sales for which these expenses were incurred were Koyo Seiko's sales to all its various customers, which encompassed a mix of related and unrelated entities in both the export and home markets. Thus, Koyo calculated its pre-sale freight allocation denominator by totaling the value for all of Koyo Seiko's sales to all its customers, as derived from Koyo Seiko's records.

Because Koyo Seiko's customers encompassed a mix of related and unrelated parties in both the home and export markets, Koyo's denominator includes sales values which reflect both transfer and resale prices. Because Koyo Seiko's customer in the United States is KCU, its wholly-owned U.S. affiliate, the U.S. sales transactions relevant to Koyo's allocation are those between Koyo Seiko and KCU. Thus, Koyo correctly included within its denominator the total value of its sales to KCU, which were made at transfer prices. Similarly, in the home and third-country markets Koyo Seiko sold to both related and unrelated customers. Therefore, Koyo properly included within its allocation denominator the total value of Koyo Seiko's sales to its home and third-country market customers, some of which were at resale prices, while others were at transfer prices. Koyo's methodology, therefore, not only relies on a numerator and denominator which reflect the same pool of sales, but its denominator is calculated on the basis of the value of those sales for which the reported total expense amount was actually incurred.

When calculating the per-unit expense adjustment amount for each U.S. and home market transaction, Koyo applied its allocation ratio (which was the same for all sales) to the appropriate unit price. For U.S. sales it applied the ratio to the transfer prices Koyo reported between Koyo Seiko and KCU, which were the U.S. prices upon which the expense was incurred and the U.S. sales values reflected in Koyo's allocation denominator. For home market sales, Koyo applied the ratio to either a resale price (for unrelated customers) or transfer price (for related customers) because these were the home market prices upon which the expense was incurred and the home market sales values reflected in the allocation denominator.

Therefore, because Koyo's allocation properly reflects the manner in which, and the sales upon which, Koyo actually incurred this expense, we do not agree with the petitioner that Koyo's allocation is unreasonable and have made no changes to this methodology for these final results.

Comment 19: In its response Koyo reported inventory carrying costs (ICC) it incurred in the United States as well as the ICC it incurred in Japan for both further-manufactured and non-further-manufactured TRBs it sold in the United States. In those instances where the average number of days a TRB spent in inventory in the United States was shorter than the number of days in which KCU, Koyo's U.S. sales subsidiary, was required to pay Koyo, we set the U.S. ICCs equal to zero, added the number of days of KCU's payment terms to the number of days Koyo reported for inventory in Japan, and calculated a revised ICC for U.S. sales using this revised number of days in inventory and the home market borrowing rate. This is in accordance with our practice to use the interest rate applicable to the foreign parent's borrowings in calculating U.S. ICCs when there is evidence on the record that the foreign parent assumed the financial burden of this imputed expense through delayed payment by the U.S. subsidiary (see, e.g., *Federal-Mogul Final Remand Results* at Comment 1 and *The Timken Company* v. *United States,* 865 F. Supp. 881 (CIT 1994)). We then applied our recalculated factor for Japanese ICC to the transfer price between Koyo and KCU and our recalculated U.S. ICC factor to the landed cost of the TRB to derive per-unit ICCs for Koyo's U.S. sales.

Timken argues that, because there are inventory carrying costs associated with that portion of merchandise which has been further manufactured, any calculation of the inventory carrying costs for further-manufactured merchandise should not rely on the transfer price between Koyo and KCU, because it fails to deduct from USP those inventory carrying costs attributable to further-manufacturing. In addition, Timken contends that, with respect to the Department's recalculation methodology, it incorrectly used the home market borrowing rate, rather than Koyo's U.S. borrowing rate.

Koyo argues that the Department should not adjust USP for the imputed carrying costs associated with its further-manufacturing costs because, during the period that forgings are held at AKBMC's Orangeburg facility, they are considered raw materials used in the production of TRBs. Because the Department bases inventory carrying costs on the value of finished goods only, Timken's argument should be dismissed. In addition, Koyo adds that the imputed costs of AKBMC's raw material inventory are already included in its further-manufacturing costs through the inclusion of financing costs. As a result, Koyo argues that to make an additional adjustment, as Timken suggests, would constitute the double-counting of these inventory carrying costs.

However, Koyo states that if Timken is only suggesting that the Department apply the inventory carrying cost factor for U.S. sales to the cost of manufacturing TRBs, rather than the transfer price, Koyo agrees. Koyo asserts that the Department should apply its recalculated inventory carrying cost factor to the total cost of manufacturing for both finished and further-manufactured TRBs sold in the United States because it would allow the Department to apply the same general formula to both the U.S. sales of finished TRBs and U.S. further-manufactured TRBs.

Finally, Koyo argues that the Department properly used the home market borrowing rate in its recalculation because, for those situations in which the number of days in inventory in the United States is less that the terms of payment between Koyo and KCU, the applicable rate is the home market rate. However, Koyo adds, while it agrees with the Department's recalculation methodology, the Department erroneously applied the home market rate to the full period covered by the terms of payment between Koyo and KCU, rather than only to the actual number of days that the merchandise spent in inventory in the United States.

Department's Position: We disagree with Timken and agree in part with Koyo. As indicated above, we applied our recalculation methodology to both Koyo's further-manufactured and non-further-manufactured U.S. sales. However, for these final results we have determined that it is inappropriate to recalculate the ICCs Koyo reported for its further-manufactured sales because Koyo's methodology accurately reflects the ICCs it incurred for these sales.

In our preliminary results we determined that it was necessary to recalculate Koyo's reported ICCs for U.S. sales in order to account for those instances where the foreign parent assumed the financial burden of the imputed expenses through the delayed payment by the U.S. subsidiary. As the record indicates, with respect to Koyo's non-further-manufactured U.S. sales, where KCU purchases finished TRBs from Koyo and resells the finished bearings to unrelated U.S. customers, there were instances where the total time in inventory (in both the United States and Japan) of the finished TRBs was shorter than the number of days in which KCU was required to pay Koyo. Accordingly, because Koyo incurred the financial burden of the imputed expense in these instances, we recalculated Koyo's reported ICCs for its U.S. sales in accordance with our practice in such instances to use the interest rate applicable to the foreign parent's borrowings. We therefore disagree with Timken that we should not have applied the home market interest rate in our recalculation.

As was the case with its non-further-manufactured U.S. sales, Koyo reported ICCs for both the time in inventory in Japan and in the United States for the further-manufactured sales. However, the Japanese ICC Koyo reported for its further-manufactured U.S. sales reflected the time in inventory in Japan for forgings, while the reported U.S. ICC reflected the time in inventory in the United States for the finished TRBs. This is consistent with the fact that (1) Koyo treated forgings as finished merchandise in Japan, (2) once the forgings were purchased by AKBMC, Koyo's U.S. manufacturing subsidiary, the forgings became part of AKBMC's raw material inventory, and (3) it wasn't until the forgings were further processed into finished TRBs that ICCs were incurred in the United States for finished goods. Because the forgings became raw material inventory upon purchase by AKBMC, the ICCs for the forgings at this point were not U.S. selling expenses, but rather reflected and were captured in AKBMC's production costs. Because it is our policy to make an ICC adjustment to USP for only finished goods in inventory because unfinished goods represent production expenses rather than U.S. selling expenses (see, e.g., *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea;*

Final Results of Antidumping Duty Administrative Review, 61 FR 20216 (May 6, 1996)), it would be inappropriate to apply our recalculation methodology to Koyo's further-manufactured sales because this methodology would not only treat the ICCs incurred during the time the forgings are unfinished goods as U.S. selling expenses, but it would result in the double-counting of these expense as well. Therefore, we have not applied our recalculation methodology to Koyo's further-manufactured sales for these final results and have relied on Koyo's originally reported ICC expense calculations.

With respect to Timken's argument that any calculation of Koyo's ICC for further-manufactured sales should not rely on the transfer price between Koyo and KCU because it excludes the ICCs incurred during the time of further-manufacture, we disagree. As noted above, we only calculate ICCs for finished goods. Because the forgings are clearly not finished merchandise during the further-manufacturing process, these expenses were properly captured in AKBMC's production costs. In addition, we note that as a general rule we prefer ICCs to be calculated using cost-based information because it represents the imputed cost to the firm for storing merchandise in inventory. However, as explained in our *Federal-Mogul Final Remand Results,* transfer prices represent the actual cost to a U.S. subsidiary of acquiring the subject merchandise and, as such, reflect the actual cost of the merchandise as it entered the subsidiary's inventory (see *Federal-Mogul Final Remand Results* at Comment 1). Because the reporting and subsequent verification of the U.S. ICCs typically requires that the U.S. subsidiary establish the average cost of merchandise held in inventory as well as the total cost of merchandise sold during the time period at issue (generally one year), subsidiaries often base such costs on transfer prices, which are maintained in the normal course of business, and provide an accurate basis upon which to calculate the cost to the subsidiary of holding inventory prior to the sale to an unrelated customer. Based on these reasons, as well as the fact that there is no evidence on the record to impugn the reliability of Koyo's reported transfer prices, we have determined that the use of the transfer price as the basis for Koyo's calculation of the ICC expenses incurred in Japan for its U.S. further-manufactured sales and as the basis for our calculation of the ICC expense incurred by Koyo for non-further-manufactured U.S. sales is appropriate and accurate.

Finally, we agree with Koyo that, when recalculating Koyo's ICCs for its U.S. non-further-manufactured sales where the time in inventory in the United States was less than the terms of payment between Koyo Seiko and KCU, we incorrectly included within our calculation of the revised number of days in inventory the full number of days of KCU's payment terms to Koyo Seiko, despite the fact that the actual number of days the merchandise spent in inventory in the United States was less than the payment terms. As a result, we agree that our recalculation overstates Koyo's ICCs for these U.S. TRBs sales. Therefore, for these final results we have corrected this error by calculating the number of days in inventory for Koyo's non-further-manufactured U.S. merchandise by adding to the number of days the U.S. merchandise spent in inventory in the home market the actual number of days in inventory in the United States, rather than the number of days reflected by the full payment terms between KCU and Koyo Seiko.

Comment 20: Timken argues that, because TRBs manufactured by American NTN Bearing Corporation (ANBC), NTN's U.S. manufacturing subsidiary, are maintained in ANBC's inventory until sold to NBCA, the time in inventory at ANBC should be added to NBCA's time in inventory in NTN's U.S. inventory carrying cost calculation for further-manufactured merchandise.

NTN contends that Timken's argument is misplaced because NBCA incurs all inventory expenses relative to further-manufactured merchandise from the point ANBC completes the manufacture of the finished merchandise.

Department's Position: We agree with NTN. Because NBCA incurs all the inventory expenses relative to further-manufactured merchandise from the point that ANBC completes the production of the finished merchandise, the ICCs Timken refers to are already included in NBCA's reported ICCs for U.S. sales. Therefore, we have made no changes to NTN's reported ICCs for these final results.

Comment 21: Timken argues that the Department improperly treated NSK's reported U.S. technical service expenses as indirect selling expenses. Timken contends that not only did NSK report technical service expenses which the Department considers to be directly related to sales, but NSK failed to segregate its technical service expenses into direct and indirect portions. Timken asserts that, because it is the Department's practice to treat all of a respondent's U.S. technical service expenses as direct selling expenses when a respondent fails to segregate the expenses into direct and indirect portions, the Department should make an adverse inference and treat all of NSK's reported U.S. technical service expenses as direct selling expenses.

NSK argues that the record demonstrates that its reported U.S. technical service expenses reflect indirect expenses such as salaries and fringe benefits, and that any expenses which could be potentially identified as direct selling expenses would have a *de minimis* impact on the expense calculation. Furthermore, NSK asserts, the Department has verified and accepted its reported technical service expenses in past reviews of both the TRBs and AFBs cases (*TRBs 90–92* at 64726) and should do so again in these instant reviews.

Department's Position: We agree with Timken. Our questionnaire specifically requests respondents to separate the fixed and variable portions of technical service expenses because we treat fixed technical servicing costs as indirect expenses and variable technical servicing costs as direct expenses. Our review of NSK's response indicates that, although NSK incurred both fixed and variable technical service expenses, it did not separate these expenses into direct and indirect portions. While we recognize that, in order to achieve this segregation it would be necessary for NSK to trace certain expenses, such as travel and travel-related expenses, to individual customer calls, the difficulty that may be associated with such an exercise does not relieve NSK of its responsibility to provide the Department with actual expense information. Therefore, for these final results we have applied BIA and treated all of NSK's U.S. technical service expenses as direct selling expenses (see, e.g., *AFBs 93–94* at 66486).

Comment 22: Timken contends that Koyo has identified an imported component for a certain TRB, that was further manufactured and sold in the United States during the 1992–93 POR, as an AFB part rather than as a TRB part. Timken contends that the Department must ensure that Koyo is properly identifying its imported TRBs components as TRB parts and is paying the appropriate antidumping duty cash deposit rates on these components. Furthermore, Timken asserts, given Koyo's failure to identify this TRB part as a TRB part in its response, the Department should apply a first-tier BIA rate to all of Koyo's reported U.S. sales of the model which contains this misidentified component.

Koyo argues that, when calculating its reported further-processing expenses for a particular TRB model, it did improperly identify that component as non-scope merchandise. However, Koyo contends, Timken's contention that the Department should resort to first-tier BIA to calculate the margin for all sales of the model which contained this component is extreme and unwarranted. Koyo claims that the only impact of its error was to slightly inflate its reported material costs. Koyo contends that the Department, therefore, should simply neutralize the impact of the error by making the appropriate offsetting adjustment to the material costs Koyo reported for the TRB model which contains this component prior to deducting the model's further-processing costs from USP.

Department's Position: We agree with Koyo. Not only is this the first time Koyo has submitted its further-processing costs for TRBs further manufactured from forgings and sold in the United States, but there is no evidence on the record to suggest that Koyo intentionally identified the component in question as an AFBs part or that Koyo is paying AFBs antidumping duty cash deposit rates on entries of merchandise subject to the TRBs antidumping duty order or finding. Rather, the record indicates that Koyo made an error when compiling its further-processing costs for the purpose of responding to our questionnaire. Because information on the record allows us to correct this error, and because the correction of the error does not entail a substantial revision to Koyo's response, we have made the appropriate corrections for these final results. *See* the proprietary version of the Department's final results analysis memorandum for Koyo for a detailed description of our corrections.

3. Discounts, Rebates, and Post-Sale Price Adjustments (PSPAs)

Comment 23: Timken argues that, while the Department properly determined that NTN's discounts, Koyo's billing adjustments (BILLADJI), and NSK's return rebates should not be treated as direct selling expenses because they were neither reported on a transaction-specific basis nor granted at a fixed and constant percentage of the sales upon which they were allocated, the Department incorrectly treated these expenses as indirect selling expenses. Timken contends that in *Torrington Company* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996) (*Torrington*), the Court of Appeals for the Federal Circuit (CAFC) emphasized that indirect selling expenses are those types of expenses that are not related to particular sales, but are incurred on all sales, and concluded that expenses that are, by their nature, directly related to particular sales cannot be treated and deducted from FMV as indirect selling expenses. Timken asserts that, although NTN's discount, Koyo's BILLADJI, and NSK's return-rebate reporting methodologies prevent the Department from treating these expenses as direct selling expenses, the record demonstrates that they are nevertheless related to particular sales and are, therefore, direct by their nature. Timken concludes that the Department, in accordance with *Torrington*, cannot treat these expenses as indirect selling expenses; rather, it must deny each adjustment in its entirety.

NTN argues that, because its home market discounts are not related to particular sales and do not vary with the quantity of a particular item sold, *Torrington* does not apply to these discounts and the Department properly adjusted for the expenses as indirect selling expenses.

Koyo argues that Timken has mischaracterized the CAFC's ruling in *Torrington* by contending that the CAFC held that direct expenses may not be allocated to all sales. Koyo argues that the *Torrington* decision was in fact much more limited, deciding only that, because PSPAs were incurred as direct expenses, the Department could not treat them as indirect expenses under the ESP offset provision. Koyo asserts that in *Torrington* the CAFC merely reaffirmed its earlier determination in *Smith Corona Group* v. *United Sates*, 713 F.2d 1568 (Fed. Cir. 1983) (*Smith Corona*), which permits the Department to accept allocated expenses as direct selling expenses, provided that the allocation does not distort the margins. In fact, Koyo contends, contrary to Timken's assertion, there is nothing within the *Torrington* decision which undermines the authority of the Department to treat expenses allocated over scope merchandise as direct expenses. Koyo explains that, because its BILLADJI adjustment was allocated across sales of only scope merchandise, the Department must reject Timken's arguments and adjust FMV for these billing adjustments as direct, rather than indirect, selling expenses.

NSK contends that the evidence on the record clearly demonstrates that its reported return rebates warrant deduction from FMV as direct selling expenses. NSK contends that, in accordance with *Torrington*, these return rebates are direct in nature. Furthermore, NSK states that the evidence on the record also clearly demonstrates that NSK reported these expenses as specifically as its records permitted and calculated the adjustments to avoid inaccuracies or distortions to FMV. NSK concludes that, because the Department allows non-distortive allocations where transaction-specific reporting is not feasible and because its reporting methodology reflects its actual experience, the Department's decision to treat these expenses as indirect selling expenses in its preliminary results was incorrect.

Department's Position: We agree in part with Timken. As a general matter, pursuant to the law in effect prior to January 1, 1995, the Department only accepts claims for discounts, rebates, or other PSPAs as direct adjustments to price if actual amounts are reported for each transaction (see, e.g., *AFBs 93–94* at 66498). One way in which a respondent may report actual adjustment amounts is if the PSPA is reported on a transaction-specific basis. Because allocated price adjustments can have the effect of distorting individual prices by diluting the PSPAs received on some sales, inflating them on other sales, and attributing them to still other sales that did not actually receive any adjustment at all, such allocations do not result in the actual amount of the adjustment being reported for each individual sale. Rather, allocations have the effect of partially averaging prices. Just as we do not allow respondents to report average prices, we do not allow respondents to average direct additions to or subtractions from price. However, if the PSPA is allocated, we consider the actual amount of the adjustment to be reported and will treat the PSPA as a direct selling expense if the respondent demonstrates that the PSPA was granted as a fixed and constant percentage of the sales price of all transactions for which it was reported and to which it was allocated. We do so because such an allocation does not distort the amount of the adjustment the respondent granted because the same percentage adjustment applies to all sales. This policy is consistent with the policy we established and followed in numerous reviews of both the TRBs and AFBs orders (see, e.g., *TRBs 92–93* at 57640 and *AFBs 93–94* at 66498).

In the past, if a respondent allocated a PSPA such that it was limited to scope merchandise, but did not result in the actual amount of the adjustment being reported for each sale (*i.e.*, it was reported on a customer- or product-specific basis) we treated the PSPA as an indirect expense and adjusted FMV accordingly. However, in light of

Torrington, in which the CAFC determined that we cannot treat a PSPA as an indirect selling expense when it is, by its nature, a direct selling expense, we no longer treat improperly allocated home market price adjustments as indirect selling expenses, but instead disallow negative (downward) adjustments in their entirety. However, we will continue to treat positive (upward) home market price adjustments (e.g., positive billing adjustments that increase the final sales price) as direct selling expenses in our analysis. The treatment of positive billing adjustments as direct selling expenses is appropriate because disallowing such adjustments would provide an incentive to a respondent to report positive billing adjustments on an allocated basis in order to minimize their effect on the margin calculations. That is, if we were to disregard positive billing adjustments which would be upward adjustments to FMV, respondents would have no incentive to report these adjustments on a transaction-specific basis (see *AFBs 93–94* at 66498).

We note that this policy is in direct accordance with *Torrington* and *Smith Corona* which hold that we must disallow home market price adjustments that are allocated in a manner that does not allow us to separate expenses incurred on sales of scope merchandise from those incurred on sales of non-scope merchandise. Our policy incorporates this decision in that we do not allow allocated price adjustments except for those granted at a fixed and constant percentage of the sales price on all transactions for which the adjustment was reported. If a respondent grants and reports a PSPA as a fixed percentage of the sales to which it pertains, the fact that this pool of sales may include non-scope merchandise does not distort the amount of the expense the respondent granted and reported on sales of subject merchandise because the same adjustment percentage applied to both scope and non-scope merchandise (see id.).

Therefore, contrary to Koyo's assertion that we have based our policy on an overly narrow interpretation of the CIT and CAFC rulings requiring us to reject allocated PSPAs in all cases, our policy allows for the acceptance of allocated PSPA amounts as direct selling expenses when a respondent demonstrates that no distortion has occurred as a result of its allocation. The only manner in which an allocated PSPA would not result in distortion is if it was granted and reported as a fixed and constant percentage of the sales to which it has been allocated.

For these final results we have applied this policy to NTN's home market discounts, Koyo's home market BILLADJI adjustment, and NSK's return rebates and have made the following determinations:

First, concerning NTN's discounts, NTN did not report these discounts on a transaction-specific basis, but, rather, reported the adjustments on a product- or customer-specific basis. Furthermore, NTN did not grant and report these discounts as a fixed and constant percentage of sales. Therefore, because NTN's discounts are clearly direct in nature (i.e., they are directly related to particular sales rather than related to all sales), but were not allocated appropriately, we have disallowed this adjustment to FMV for these final results (see *AFBs 93–94* at 66501).

Concerning Koyo's BILLADJI adjustment, while Koyo reported this adjustment based on a scope-specific allocation, Koyo did not report it on a transaction-specific basis and we found no evidence that Koyo granted the adjustment as a fixed and constant percentage of the sales for which it was reported. As a result, because this allocation does not result in the actual amount of the adjustment being reported for each transaction, we have, in accordance with our established practice, denied all negative BILLADJI adjustments in their entirety. However, because Koyo also reported positive BILLADJI adjustments, in accordance with our policy stated above, we have treated these as direct selling expense adjustments to FMV.

With respect to NSK's return rebates, we have determined for these final results that NSK's return rebates are promotional expenses, rather than price adjustments, because NSK grants these rebates to promote sales made by distributors. Because NSK demonstrated in its response that it incurred and reported these expenses on a model-specific basis and tied these expenses to subject merchandise, we consider the expenses to be direct selling expenses and have adjusted FMV accordingly.

Comment 24: Timken argues that the Department improperly treated NSK's lump-sum PSPAs as indirect selling expenses. Timken contends that the CIT has clearly stated that the Department may not allow an adjustment to FMV for any rebates allocated on the basis of sales of non-scope merchandise (*Torrington Co.* v. *United States*, 818 F. Supp. 1563 (CIT 1993)). Timken contends that the record demonstrates that NSK did not report its lump-sum PSPAs on the basis of sales of in-scope merchandise only, and, as a result, the Department must deny this adjustment to FMV in its entirety.

Citing *Torrington*, NSK contends that the CAFC has clearly determined that this type of PSPA constitutes a direct selling expense. Furthermore, NSK contends, it has submitted evidence demonstrating that the monthly purchasing patterns of customers receiving these adjustments are relatively stable for purchases of scope and non-scope merchandise. NSK asserts that, because these customers consistently buy about the same percentage of scope and non-scope products from month to month, without any variance, the PSPA granted is fairly apportioned to scope sales and does not distort FMV. Thus, NSK contends, its method for reporting lump-sum PSPAs accurately calculates the per-unit adjustment for sales of scope merchandise and the Department must treat these expenses as direct selling expenses.

Department's Position: We agree with Timken. We have denied this adjustment for these final results because it is a direct price adjustment and NSK failed to tie the PSPA to the particular sales affected by the adjustment. NSK explained in its response that it granted these lump-sum PSPAs as a fixed percentage of a certain group of sales. However, rather than tying the adjustment to the particular transactions for which the adjustment was incurred, NSK allocated the lump-sum PSPAs by dividing the total amount of the lump-sum PSPAs it paid to a customer during the POR by the total sales value of all merchandise (scope and non-scope) sold to the customer during the POR. As a result, NSK allocated the PSPAs across a broader base of sales than those for which it was granted. Accordingly, we have denied this adjustment in its entirety for these final results.

Comment 25: Timken contends that the record demonstrates that NSK's home market early payment discounts are, by their nature, directly related to sales. However, Timken asserts, NSK did not report these discounts on a transaction-specific basis and its allocation of these discounts included non-scope merchandise. Timken argues that, in an effort to eliminate the flaws in NSK's reporting methodology, the Department attempted to recalculate NSK's early payment discounts. However, Timken contends, not only is it unclear how the Department's recalculation methodology accurately established the payment period for each customer receiving such a discount, but, because the recalculation is neither transaction-specific nor limited to scope merchandise, it also fails to result in the derivation of the actual discount earned on individual transactions of scope merchandise. Therefore, Timken concludes, the Department should abandon its attempts to recalculate NSK's discounts and should deny the adjustment in its entirety for these final results.

NSK argues that, while non-scope merchandise was included in both its original allocation and the Department's recalculation, the record clearly demonstrates that it granted these discounts as a fixed and constant percentage of the sales to which they were allocated. As a result, NSK claims, there is no need for the Department to remove non-scope merchandise from its recalculation. Furthermore, NSK argues, the Department's recalculation accurately assigned the applicable payment period to each customer receiving such a discount. In addition, NSK asserts, because the record demonstrates that customers' payment patterns were stable throughout the POR, the Department's recalculation resulted in accurate per-transaction discount amounts for scope merchandise. As a result, NSK concludes, the Department should not abandon its recalculation methodology and should continue to adjust FMV for these discounts as direct selling expenses.

Department's Position: We agree with NSK. The record demonstrates that NSK granted a discount to those customers who remitted payment earlier than the terms of payment for that particular customer called for. The record also reveals that NSK granted different rates depending upon how early the payment was received. In other words, NSK had in place a rebate schedule which offered a different discount rate on the basis of the payment category, such that when NSK received a payment, for example, zero to thirty days early NSK granted one discount rate, while when NSK received a payment thirty to sixty days early, it granted a different discount rate. The record also indicates that NSK offered the same discounts equally to sales of both scope and non-scope merchandise; thus, regardless of the merchandise, whenever payment was received early, NSK granted the applicable discount rate on the basis of the payment category. In addition, the record demonstrates that NSK periodically changed the discount rates for each payment category throughout the POR such that, even if a customer consistently paid the same number of days early every month in the POR, it received different discount rates during the POR. Finally, the record demonstrates that each customer had a stable payment pattern. In other words, each customer remitted payment within the same number days early each month such that it consistently received the discount rate in effect for the same payment category.

NSK calculated its reported discount amounts by dividing the total discounts paid to a customer during the POR by the total sales value of merchandise sold to that customer during the POR. As a result, even though each customer's payment category remained stable over time, the discount rate NSK reported for a customer reflected an average POR percentage rather than the actual rate granted to the customer at the time the actual transaction was made. In other words, NSK averaged a customer's discount rate and applied that rate to each transaction rather than the actual rate granted. In our preliminary results, based on our review of the information NSK submitted in regard to these discounts, we determined that information on the record enabled us to remove this distortion. Therefore, we recalculated NSK discounts as follows:

First, because a customer's payment category was stable over time, it was mathematically possible to determine the payment category for a customer for a given transaction by dividing the discount amount reported for the transaction by the unit price. By comparing this ratio to the individual POR averages NSK reported for each customer, we were able to ascertain the payment category for that customer. For example, if a customer consistently remitted payment 0–30 days early and the discount rate for this category was 1.5 percent for the first half of the POR and 2.0 percent for the second half of the POR, the average POR rate NSK would have reported for the transaction would be 1.75 percent. If we divided the discount amount reported for a transaction by the unit price of that transaction and arrived at 1.75 percent, we would know that that transaction fell in the zero to thirty day payment category. However, because the discount rate NSK applied to the unit price reported for a transaction reflected the average POR rate for the customer (1.75 percent) and not the actual discount rate granted during the period in which the transaction took place (either 1.5 percent or 2.0 percent), NSK's allocation failed to result in actual transaction-specific discounts. Therefore, after determining the payment category for each transaction, we applied a revised discount rate to that transaction depending upon the date of the transaction and applicable payment category discount rate. In this way, we applied to each transaction the discount rate which actually applied to the sale.

We disagree with Timken that this recalculation suffers from the same flaws as NSK's original methodology. Because NSK granted the same discount rate on sales of all merchandise (*i.e.*, granted the discount as a fixed and constant percentage of all applicable sales prices), the inclusion of non-scope merchandise in our allocation is non-distortive. Furthermore, our methodology clearly results in the application of transaction-specific discounts because we apply the discount rate granted to a customer within a given time period to sales to that customer within the corresponding time period. Therefore, we have not altered our recalculation of NSK early payment discounts for these final results and have continued to treat these discounts, as recalculated, as direct selling expenses.

Comment 26: NSK argues that the record demonstrates that it granted and reported its distributor incentives as a fixed and constant percentage of all applicable sales. Furthermore, NSK asserts that in a recent remand determination the Department determined that, because NSK's distributor incentives were granted and reported as a fixed percentage of all sales, both scope and non-scope, NSK's allocation was reasonable and non-distortive, and the Department subsequently treated the adjustment as a direct selling expense (Final Results of Redetermination Pursuant to Remand, *Torrington Co.* v. *United States*, Court No. 92–07–00483 (CIT 1995), aff'd Slip Op. 96–85 (CIT 1996)). NSK concludes, because there is no difference in the methodology it used in this review and the one at issue in the remand, the Department should treat these distributor incentives as direct selling expenses in these reviews as well.

Timken contends that there is no evidence on the record demonstrating that the sales upon which NSK calculated its incentive rebates included only sales of subject merchandise. Therefore, Timken concludes, because the Department cannot allow the inclusion of non-scope merchandise when calculating adjustments to FMV, the Department should continue to deny this adjustment for these final results.

Department's Position: We disagree with NSK. Based on our reexamination of the record, we have determined that, while NSK granted its distributor incentives as a fixed and constant percentage of its distributors' gross sales, NSK did not allocate these expenses on the basis of this same group of sales. Rather, NSK allocated the expenses on the basis of its sales to its distributors. Therefore, while NSK may have incurred the expenses as a fixed and constant percentage of its distributors' sales, NSK provided no evidence indicating that the adjustment was granted as a fixed and constant percentage of its sales to its distributors (the sales upon which NSK actually allocated the expense for the purpose of its response). Therefore, we have denied this adjustment in its entirety for these final results.

Comment 27: Fuji argues that the Department incorrectly disallowed its claimed adjustment for home market rebates. First, Fuji explains that it allocated its rebates to scope merchandise using both scope and non-scope merchandise because the rebates were incurred on the basis of both scope and non-merchandise. As a result, Fuji asserts, its records do not provide a separate breakout for TRB rebates alone, and it is unable to provide TRB-specific rebate amounts. However, Fuji adds, under its rebate program the same rebate amounts are paid on scope and non-scope merchandise regardless of whether the merchandise is scope- or non-scope. Therefore, Fuji asserts, its allocation methodology accurately allocates the rebates to TRBs and the Department should adjust FMV for these expenses as direct selling expenses.

Fuji further contends that, even if the Department does not agree that these rebates warrant a direct adjustment to FMV, the Department must nevertheless adjust for these rebates as indirect selling expenses. Fuji asserts that the Department routinely includes the amount of a disallowed rebate within home market indirect selling expenses even in situations where the rebate amount includes both scope and non-scope merchandise.

Timken argues that the Department properly denied Fuji an adjustment for its home market rebates because the record demonstrates that Fuji provided rebates for selected periods of time and, as a result, the POR encompasses several rebate periods. Timken asserts that, while it may be the case that in a given period Fuji granted the same rebate for both scope and non-scope merchandise, the existence of multiple rebate periods indicates that, if the recipient of the rebate sold only non-scope merchandise within a period and earned a large rebate, but in the next period sold both scope and non-scope merchandise, the rebate for the non-scope merchandise would be allocated to all sales even though it was only earned for non-scope merchandise. As a result, Timken concludes, the Department must deny this adjustment as it did in its preliminary results.

Department's Position: We agree in part with Timken. The record indicates that Fuji offered two different types of rebate programs to its dealers. Fuji calculated the rebate amounts it reported for each transaction by dividing the total amount of rebate paid to each dealer during the POR by the total sales to the dealer during the POR. As a result, Fuji reported its rebates on a customer-specific rather than a transaction-specific basis. Therefore, in order for us to accept Fuji's allocation, Fuji must demonstrate that it granted its rebates to each customer at a fixed and constant percentage of its sales of all products, both scope and non-scope. We examined the record to determine if, as Fuji claims, its rebates were granted and reported as a fixed and constant percentage of all sales such that the inclusion of non-scope merchandise in its denominator would not produce distortions. Fuji noted several times that its rebates were granted at a fixed and constant percentage. However, we are unable to find any evidence on the record supporting this contention. Furthermore, it is unclear from Fuji's response whether there are multiple rebate periods in a POR, and, if so, whether the rebate percentage granted to a customer was the same for each period. Given that Fuji calculated an overall POR rebate percentage for each dealer, if we are unable to determine if multiple rebate periods existed within the POR, we are unable to determine whether the POR rebate percentage Fuji reported for each transaction truly reflects the rebate percentage applicable to each transaction. Therefore, because the information Fuji submitted is insufficient for the purpose of determining whether the rebate percentage reported for each dealer reflected the actual rebate percentage applicable to a given transaction to that dealer, we have not treated these rebates as direct selling expenses.

Finally, because the record demonstrates that Fuji's rebates are direct by their nature, in accordance with *Torrington* we cannot treat these rebates as indirect selling expenses. Therefore, for these final results we have continued to deny Fuji's rebate adjustments in their entirety.

4. COP and CV

Comment 28: Timken argues that, in accordance with *Certain Hot-Rolled, Cold-Rolled, Corrosion-Resistant and Cut-to-Length Steel Flat Products from Korea* (58 FR 37176) and *Certain Stainless Steel Wire Rods from France* (58 FR 68865), the Department should exclude from its profit calculation for CV those sales to related parties which were not at arm's length.

NTN argues that nothing in the statute suggests that the Department must examine whether sales were made at arm's length for the purposes of calculating CV. NTN argues that the Department did not exclude such sales in its calculation of CV profit for NTN in the 1992–93 TRBs review and nothing on the record in this review supports any such change.

Koyo argues that, because neither the statute nor case law requires the pool of sales for determining FMV based on price-to-price comparisons to be the same as the pool of sales used to calculate profit for CV, the Department has the authority to base CV profit on all home market sales. Furthermore, Koyo asserts, because section 773(e)(1)(A) of the Act specifies that profit is to be ''equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration,'' the statute clearly requires CV profit to be calculated on the basis of all sales of the general class or kind of merchandise under consideration. Moreover, citing to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 10900, 10922 (February 28, 1995) (*AFBs 92–93*), Koyo contends that the Department does not support the exclusion of all related-party sales that fail the arm's-length test from the CV profit calculation. Thus, Koyo concludes, the fact that sales may fail the arm's-length test does not warrant the automatic exclusion of the sales from the CV profit calculation.

Department's Position: We agree with Timken in part. As explained in numerous reviews of the AFBs orders (see, e.g., *AFBs 93–94* at 66493), section 773(e)(2) of the Act provides that a transaction between related parties may be ''disregarded if, in the case of an element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration.'' Our arm's-length test determines whether prices to related parties are equal to, or higher than, sales prices to unrelated parties in the same market. Therefore, this test is not dispositive of whether an element of profit on related-party sales is somehow not reflective of the amount usually earned on sales of the merchandise under consideration.

Related-party sales that fail the arm's-length test do give rise to the possibility, however, that certain elements of value, such as profit, may not fairly reflect an amount usually earned on sales of the merchandise. For these final results we considered whether the amount for profit on sales to related parties which failed the arm's-length test was reflective of an amount of profit usually experienced on sales of TRBs. To do so, we compared profit on sales to related parties that failed the arm's-length test to profit on sales to unrelated parties. If the profit on sales to related parties varied significantly from the profit on sales to unrelated parties, we disregarded the related-party sales when calculating profit for CV. Specifically, we first calculated the profit on sales to unrelated parties. If the profit on these sales was less than the statutory minimum of eight percent, we used the eight-percent minimum in the calculation of CV. If the profit on these sales was equal to, or greater than, the eight-percent minimum, we calculated profit on the sales to related parties that failed the arm's-length test and compared it to the profit on sales to unrelated parties as described above. If the profits on such sales to related parties varied significantly from the profits on sales to unrelated parties, we excluded those related-party sales when calculating profit for CV .

We note that this is identical to the steps we took in *AFBs 92–93* at 10922 and *AFBs 93–94* at 66493. However, these TRBs reviews mark the first time since our adoption of this policy that we needed to conduct this analysis in the TRB cases. We did not apply this policy in *TRBs 92–93* because we found that none of the respondents' related-party sales failed the arm's-length test. As a result, the issue was moot for those reviews. Therefore, we do not agree with NTN that, because we have not applied this policy in past TRBs reviews, we have no basis to do so in these instant reviews. Rather, because we found non-arm's-length related-party sales for those firms for which we based FMV on CV (NTN, NSK, and Koyo), we have applied our policy as explained above and made changes, where appropriate, in our respective company-specific analyses.

Comment 29: NSK claims that the Department violated the antidumping law by never establishing the grounds for collecting cost data from related-party suppliers. NSK contends that, pursuant to section 773(e)(3) of the Act, the Department has the right to disregard sales prices NSK paid to related-party suppliers in favor of the supplier's COP only if (1) the Department has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of the input, and (2) the information being requested is for a ''major'' input. NSK argues that, because the language in section 773(e)(3) of the Act is identical to that in section 773(b) of the Act (the provision which grants the Department the authority to conduct cost investigations), the same threshold standard is applicable. In other words, NSK argues that, because the petitioner never alleged that NSK purchased an input from a related supplier at less than COP, and because the Department never alleged or substantiated that transfer prices from related suppliers were less than COP, let alone whether the input was a ''major'' input, reasonable grounds for the collection of this data did not exist.

NSK further contends that the Department has no other statutory authority for requesting related-supplier COP data and that there is no evidence on the record to support the Department's disregard of NSK's related-supplier transfer prices. Therefore, NSK concludes, the Department should not use this illegally-obtained related-supplier information and should strike it from the record of these reviews.

Timken argues that the Department's preliminary results decision regarding NSK's related-supplier transfer prices was justified and in accordance with the law. Timken contends that the standard for analyzing below-cost sales pursuant to section 773(b) of the Act does not require any allegation by domestic parties. Likewise, accepting NSK's position that the identical language of sections 773(e)(3) and 773(b) constitutes the application of the same standard, Timken maintains that there is therefore no requirement that the domestic party has the burden of submitting evidence of below-cost related-party supplier transfer prices. In fact, Timken maintains, the respondent should bear the responsibility of providing such evidence because related-party input transfers are already ''suspect'' and domestic producers simply do not have access to the respondent's books and records, or access to what inputs were purchased from related suppliers. Timken adds that, given the nature of TRB production, it is also nearly impossible to submit data regarding the production costs at every stage of production that might be a transfer point. Furthermore, the petitioner states that to require allegations from the domestic party as a prerequisite for the Department to investigate would effectively curtail the inherent authority of the Department to conduct below-cost sales and related-party transfer price investigations. Timken also maintains that the Department's collection of NSK's related-supplier transfer prices was justified because NSK has engaged in below-cost selling. Timken argues that, given that NSK does sell at below-cost prices, it is reasonable to infer that its losses are passed back to related suppliers which are forced to transfer inputs at a loss. In addition, Timken asserts that there is ample evidence on the record for these reviews supporting the Department's decision to disregard NSK's related-party transfer prices.

Finally, Timken argues, because NSK's arguments were rejected by the CIT in *NSK Ltd.* v. *United States*, 910 F. Supp. 663 (CIT 1995) (*NSK*), the Department should adhere to its preliminary determination and adjust NSK's reported COP and CV to reflect the actual COP of related-party inputs. However, Timken notes, while the Department indicated in its preliminary results that it did adjust NSK's COP and CV to reflect the actual COP of related-party inputs, it is not apparent from the Department's preliminary results computer program that it did so. Timken, therefore, requests that the Department ensure that NSK's COP and CV are properly adjusted for these final results.

Department's Position: We disagree with NSK. As we explained in detail in *TRBs 92–93* at 57643, two separate sections of the Act direct the Department to disregard transfer prices for certain transactions: section 773(e)(2) which directs us to disregard transfer prices if the transfer prices for ''any element of value'' do not reflect their normal market value, and section 773(e)(3) which directs the Department to disregard transactions if the transfer prices for ''major inputs'' are below the COP.

For CV purposes, pursuant to section 773(e)(2) of the Act, in general we determine whether the transfer prices for any element of value were below the normal market value of that element. Pursuant to the statute, we do not use transfer prices between related companies to value any element of value if such prices do not fairly reflect the amount usually reflected in sales of the merchandise under consideration in the market under consideration. This is sometimes referred to as the requirement for an ''arm's-length'' price. To determine whether the transfer prices reflect arm's-length prices, we normally compare the transfer price to (1) the prices related suppliers charge to unrelated parties, or (2) the prices charged by unrelated suppliers to the respondent. If we disregard a transaction because the respondent cannot demonstrate that the transaction was made at arm's length, and there are no other transactions available for consideration, then we must rely on the ''best evidence available'' to determine the value of the element. In other words, if there are no arm's-length prices for components to compare to transfer prices, ''Commerce generally use[s] the cost of the components as representative of the value reflected in the market under consideration'' (see *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 et al.*, 54 FR 18992 (1989) (*AFBs LTFV*)). In that situation we must determine whether to use the reported cost data as the ''best evidence available.'' Otherwise, we cannot fulfill our statutory obligation of valuing elements of value for CV purposes.

NSK erroneously argues that, before we can request cost data for inputs, we must have a specific and objective basis for suspecting that the transfer price paid to a particular related supplier for a major input is below the related supplier's COP. NSK's argument is based on the erroneous assumption that we must rely upon section 773(e)(3) of the Act to request information regarding the cost of components parts. As demonstrated above, section 773(e)(3) of the Act simply provides an alternative basis for requesting cost information. However, there also exists a basis for examining whether the transfer prices of major inputs were below cost under section 773(e)(3). We agree with the petitioner's argument that, when a domestic party files a COP allegation, it does not necessarily have the information necessary to allege that a particular input or element of value from a related party is priced below COP. Therefore, the petitioner cannot necessarily make COP allegations regarding specific related-party inputs. As a result, we consider our 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.

In accordance with our standard practice (see, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From France,* 60 FR 10538 (February 27, 1995)), we asked NSK to provide cost data for inputs produced by related parties. NSK complied with our request for information and supplied the transfer prices and cost of production of inputs from its related parties. The record for these reviews demonstrates that in its response NSK also submitted a comparison of the weighted-average transfer prices for those inputs NSK purchased from both related and unrelated suppliers. By this comparison NSK intended to show the arm's-length nature of its transfer prices where inputs were purchased from both related and unrelated suppliers. This comparison, however, was not useful in determining whether related-supplier transfer prices were at arm's length because it listed only a limited number of instances where NSK purchased an identical or similar input from both a related and unrelated supplier. Because we could not rely on NSK's related-party transfer price comparison, we examined in detail the submitted COP and transfer prices for all of NSK's related suppliers. We found that, contrary to NSK's claim, transfer prices from related suppliers were often below the suppliers' COP for that input. Because NSK was unable to demonstrate that elements of value included in its submitted CV calculations were reflective of their normal market value, the submitted related-party cost information was required by law. Hence, we did not strike NSK's reported related-party cost information from the record. On the contrary, for these final results we relied on NSK's submitted related-party cost information if the COP for the input exceeded the transfer price NSK reported for the input.

Furthermore, as indicated by Timken, in *NSK* the CIT upheld our authority to request cost data from a company's related suppliers. The CIT determined that ''1677b(e)(2) does not limit Commerce's authority to request COP data pursuant to 1677b(e)(2) * * *. [T]he purpose of 1677b(e)(3) is to permit Commerce to use the best evidence available when it has reasonable grounds to suspect below cost sales occurred. There is no support in the legislative history of 1677b(e)(3) for the claim that Commerce may not request COP data for other purposes' (see *NSK* at 669).

Finally, concerning Timken's assertion that it is unclear whether our preliminary results computer program for NSK adjusts NSK's reported COP and CV to take into account related-party transfer prices for inputs which were below the COP of the input, we note that our preliminary results computer program for NSK clearly makes this adjustment. We adjusted NSK's reported COP values in lines 79 and 80 and NSK's reported CV values in lines 570 through 591.

Comment 30: NTN argues that, when the Department recalculated NTN's COP and CV values to reflect those related-party inputs for which NTN's transfer prices were less than the COP of the input, the Department applied an inappropriate allocation ratio. NTN asserts that, in an attempt to calculate the ratio for the total excess of COP over transfer price for related-party inputs, the Department used a denominator based on the sum of transfer prices for those related-party inputs where transfer price was below COP rather than the sum of all related-party input transfer prices.

Timken asserts that, while the ratio NTN describes in its comments could be used in the Department's recalculation, the record contains neither the quantity data for those inputs transferred below COP nor the identification of which TRBs included related-party inputs. As a result, Timken claims, the Department is unable to determine the actual sum of the difference between COP and transfer price for all parts purchased by NTN and has, instead, used a reasonable proxy for this absent information.

Department's Position: We agree with NTN. As explained in our preliminary results analysis memorandum for NTN dated April 12, 1996, NTN submitted COP and CV values which reflected the value of related-party inputs based on transfer price. Based on a schedule submitted by NTN's related supplier, we determined that a significant number of inputs were sold to NTN at transfer prices below COP. Therefore, we calculated a percentage adjustment that, when applied to NTN's reported COP and CV values, would increase COP by an amount reflective of the difference between COP and transfer price where transfer price was less than COP. The first step of our calculation of this percentage adjustment involved the derivation of the total difference between COP and transfer price for all related-party inputs where transfer price was below COP, and the expression of this difference as a percentage of transfer price. It is the denominator we used to calculate the amount of COP that exceeded transfer price that NTN objects to based on the assertion that it reflects only a portion of, rather than the total sum of, transfer prices. Based on our reexamination of our calculation for these final results we have determined that the denominator in question is inconsistent with the methodology of our overall COP/CV adjustment calculation and have made the appropriate changes to our calculation for these final results. Please see the proprietary version of our final results analysis memorandum for NTN for a detailed explanation of these changes.

Comment 31: Timken states that in the Department's preliminary results for

Koyo the Department calculated modified home market indirect and direct selling expenses for use in those comparisons where the Department based FMV on CV. Timken argues that, because Koyo's originally-reported CV values included expense amounts different from the revised expense amounts the Department deducted from CV to calculate FMV, the Department should have deducted the originally-reported expense amounts from CV and added its revised expenses amounts to the CV calculation prior to deducting the revised expenses from CV when calculating FMV.

Department's Position: We agree with Timken. As explained in our preliminary results analysis memoranda for Koyo, for those comparisons in which we based FMV on CV we deducted home market direct and indirect selling expense from CV. Because Koyo reported in its response the overall direct selling expense ratio and the overall indirect selling expense ratio it used to calculate its reported COP and CV, we recalculated these ratios to include Koyo's reported home market pre-sale and post-sale inland freight expense and used these recalculated ratios to calculate the amount of direct and indirect expenses to be deducted from CV. We recalculated Koyo's overall ratios because, in accordance with the law in effect prior to January 1, 1995, where we adjust for home market movement expenses under the circumstance-of-sale provision of 19 CFR 352.56 and the ESP offset provision of 19 CFR 353.56 (b)(2), we treated Koyo's reported home market pre-sale freight expenses as indirect selling expenses and Koyo's reported home market post-sale freight expenses as direct selling expenses. Because Koyo's overall direct selling expense ratio did not reflect home market post-sale freight and Koyo's overall indirect selling expense ratio did not include home market pre-sale freight, in order to ensure the proper application of our home market freight expense policy when FMV was based on CV, we determined that it was necessary to recalculate Koyo's reported indirect and direct selling expense ratios to reflect these expenses. However, Koyo's originally reported CV values relied on the ratios Koyo originally reported in its response. As a result, we when we deducted our calculated indirect and direct selling expenses from CV, we adjusted for expenses which were not originally included in CV. This had the effect of artificially lowering CV for our margin calculations. Therefore, for these final results, prior to deducting our calculated home market indirect and direct selling expenses from CV, we first recalculated Koyo's reported CV to reflect its home market pre-sale and post-sale freight expenses.

Comment 32: NTN argues that, when calculating the overall weighted-average ratios for NTN's home market direct and indirect selling expenses, which the Department used to derive the amount of direct and indirect selling expenses to be deducted from CV in those comparisons in which FMV was based on CV, the Department made two errors. First, NTN claims that the ratios the Department calculated in the beginning of its margin calculation computer program, as contained on the first page of the preliminary results computer program printout, are not the same as the ratios the Department used in a subsequent portion of the computer program. Second, NTN claims that the Department calculated a single overall weighted-average indirect selling expense ratio which reflected all home market sales, rather than taking into account exhibit D–11 of NTN's response where NTN calculated three separate ratios reflecting the differences in indirect selling expenses NTN incurred for sales to each of its three home market levels of trade (LOT).

Department's Position: We agree with NTN that, when transferring the results of our calculation of the overall weighted-average ratios for certain of NTN's home market direct and indirect selling expenses (as they appeared on page 1 of our preliminary results margin calculation computer program printouts for NTN) to a subsequent portion of our preliminary results computer program, we incorrectly transcribed these ratios. Therefore, for these final results we have corrected this inadvertent error. However, we do not agree with NTN that the single overall weighted-average ratio we calculated for its home market indirect selling expenses should not have been a single ratio, but, rather, three separate ratios reflecting the difference in indirect selling expenses NTN incurred as a result of the differences in its three home market LOTs. The LOT-specific indirect selling expenses ratios NTN refers to in exhibit D–11 of its response were derived directly from exhibit C–5 of its response, where NTN allocated the indirect selling expenses it incurred in the home market during the POR according to its LOTs. While we agree that NTN had three distinct LOTs in the home market, we do not agree that it incurred its home market indirect selling expenses differently according to LOT due to the difference in its LOTs such that LOT-specific allocations are warranted.

The CIT addressed the issue of LOT-specific expense allocations in the *Timken Company* v. *United States*, 930 F. Supp 621 (CIT 1996) (*Timken*). This decision not only has general relevance, but it is especially significant for the instant reviews because the CIT ruled on the issue of LOT-specific expense allocations specifically with regard to NTN and the 1990–91 and 1991–92 TRBs reviews. Recognizing that there may be a difference between a respondent's methodology for response purposes which allocates expenses to a LOT and how a respondent actually incurs the expenses due to differences when selling to each LOT, the CIT clearly stated that, in order for the Department to accept NTN's LOT-specific expense allocations, NTN's expenses must ''demonstrably vary according to level of trade'' (see *Timken* at 628). In other words, the fact that a respondent allocates according to LOT in an antidumping questionnaire response does not indicate whether a respondent actually incurred the expenses differently due to differences in LOTs. Rather, in order to determine if a respondent's expenses demonstrably varied according to LOT, additional narrative and quantitative evidence must exist which demonstrates that the respondent either performed different activities/functions or performed activities/functions to a different degree when selling to each LOT such that the amount of expenses incurred for the sale of the identical merchandise to different LOTs would vary. Based on our review of the record for this review, we have determined that NTN did not provide any evidence demonstrating that it actually incurred its reported home market indirect selling expenses differently due to differences in LOT. Rather, NTN's sole support for its LOT-specific allocations is the allocations themselves. As a result, the record does not support our using three separate LOT-specific indirect selling expense ratios to derive the home market indirect selling expense amounts in those comparisons where FMV is based on CV.

Furthermore, while we recognize that, for these final results, the issue of LOT-specific allocations appears to be limited to NTN's comments concerning our calculation of indirect selling expense ratios for comparisons in which FMV is based on CV, the CIT's determination in *Timken* that a respondent must demonstrate that the expenses demonstrably vary according to LOT in order to allocate those expenses according to LOT has implications for other aspects of our analysis of NTN as well.

For example, using the LOT-specific allocations it calculated for its home market indirect selling expenses in exhibit C–5, NTN calculated LOT-specific per-unit indirect selling expense amounts by multiplying its exhibit C–5 LOT-specific allocation ratios by its reported unit prices. As a result, NTN reported for each of its home market transactions indirect selling expense adjustments which varied according to the LOT at which the transaction occurred. Based on our determination for these final results that the record does not contain evidence demonstrating that NTN actually incurred these indirect selling expenses differently due to the differences in LOTs, we cannot accept NTN's reported LOT-specific per-unit indirect selling expense adjustments. Therefore, we have recalculated NTN's home market indirect selling expense allocations such that we derived a single allocation ratio applicable to all sales regardless of LOT. We then applied this ratio to NTN's reported home market unit prices and calculated per-unit adjustment amounts which also did not vary according to LOT.

NTN's exhibit C–5 allocations, however were not limited to only indirect selling expenses. NTN also calculated LOT-specific allocations and per-unit adjustments for its home market pre-sale and post-sale freight expenses. We have examined the record and have found no evidence demonstrating that NTN actually incurred these freight expenses differently due to differences in LOTs. Therefore, as was the case with NTN's indirect selling expenses, for these final results we recalculated a single allocation ratio for each of these freight expenses and applied this single ratio to NTN's reported unit prices so that NTN's allocation ratios and expense adjustments did not vary according to LOT.

The CIT's requirement that LOT allocations must be supported by evidence that a respondent's expenses demonstrably varied according to LOTs applies to U.S. expenses as well. As a result, because NTN allocated several of its reported U.S. expenses according to LOT in exhibit B–8 of its response, and calculated LOT-specific U.S. expense allocation ratios and LOT-specific U.S. per-unit expense amounts, we examined the record to determine if there was any evidence which demonstrated that NTN actually incurred these expenses differently due to differences in LOTs. Based on our review we have determined that there is no evidence that NTN incurred its U.S. direct technical service expenses, freight expenses, indirect advertising expenses, or other indirect selling expenses differently due to the differences in its U.S. LOTs. Therefore, because there is no evidence that these U.S. expenses demonstrably varied according to NTN's U.S. LOTs, we have not allowed NTN's LOT-specific allocations, allocation ratios, and per-unit amounts for these U.S. expenses. Rather, for these final results we have calculated a single allocation ratio for each expense which reflects all U.S. sales and have recalculated NTN's reported U.S. per-unit amounts for these expenses without regard to LOTs.

In addition to the above, we have made one more change to our preliminary results for NTN based on our determination that NTN's home market expenses did not demonstrably vary according to LOT. In this review NTN requested and we preliminarily granted a LOT adjustment based on the differences in certain home market indirect selling expenses between NTN's LOTs whenever we compared U.S. merchandise to such or similar home market merchandise at a home market LOT different than the LOT of the U.S. sale. In accordance with our regulations and policy concerning LOT adjustments pursuant to the law in effect prior to January 1, 1995, NTN bears the burden of demonstrating that it was entitled to an adjustment for differences in LOTs (*see* 19 CFR 353.54) and is required to provide evidence that its claimed adjustment was in fact attributable to differences in LOTs (see, e.g., *NAR S.p.A.* v. *United States*, 707 F. Supp. 553 (CIT 1989), and *Silver Reed et. al.* v. *United States*, 669 F.Supp 291 (CIT 1988)). In our preliminary results, which were published prior to the CIT's determination in *Timken*, we considered NTN's LOT-specific allocations of its home market expenses in exhibit C–5 to indicate that NTN actually incurred these expenses differently due to a difference in LOT. As a result, we considered the LOT differences NTN reported in exhibit C–5 for certain home market indirect selling expenses to constitute quantitative evidence that NTN incurred these indirect selling expenses differently due to the difference in LOTs and subsequently based our calculation of NTN's LOT adjustment on the indirect selling expense differentials in exhibit C–5. However, in light of (1) *Timken*, (2) our determination that NTN failed to provide evidence that its home market expenses demonstrably varied according to LOTs, and (3) our denial of nearly all of NTN's LOT-specific home market and U.S. allocations in these final results, we can not rely on NTN's LOT-specific allocations of certain of its home market indirect selling expenses alone as evidence that NTN actually incurred these expenses differently due to LOT differences. In addition, we can not consider NTN's exhibit C–5 home market indirect selling expense differentials as a reliable basis for a LOT adjustment. Therefore, for these final results we have eliminated from our margin calculation for NTN the LOT adjustment we allowed in our preliminary results.

Comment 33: Timken states that NSK's response indicates that it did not include inventory write-offs and write-downs for damaged or obsolete merchandise in its reported COP. Timken asserts that, because the Department considers inventory write-offs/write-downs as part of COP, the Department should revise NSK's reported COP to include these costs.

NSK contends that its inventory write-off/write-down methodology has been the same for decades and is in accordance with the Japanese Generally Accepted Accounting Principles (GAAP). Furthermore, NSK argues, its inventory write-offs and write-downs have no relation to the cost of producing the subject merchandise. Finally, NSK asserts, even if the Department should agree with Timken, it still should not include these costs in COP because the effect of any such inclusion would be *de minimis.*

Department's Position: We agree with Timken. We regard NSK's inventory write-offs and write-downs as part of the fully-absorbed cost of goods sold which should be included in the calculation of COP (see, e.g., *AFBs 94–95* at 2117). Therefore, for these final results we have included both NSK's inventory write-offs and write-downs in its reported COP.

Comment 34: Timken argues that NSK's response indicates that NSK did not include idled asset depreciation as an element of its production costs. Timken asserts that, because the Department has an established practice of adjusting a respondent's cost data to reflect depreciation on idled assets, if, as under the Japanese GAAP, the respondent does not report this depreciation as an element of its production costs, the Department should revise NSK's reported COP and CV by including an amount for NSK's idled asset depreciation. In addition, Timken contends, because NSK did not report the amount of its idled asset depreciation, the Department should use as BIA the highest idled asset depreciation reported by any other respondent in the review.

NSK argues that, because it has already accounted for its idled asset depreciation in its reported cost of manufacturing (COM), it is unnecessary for the Department to make any adjustment to its reported COP and CV.

Department's Position: We agree with NSK. It is evident from NSK's response that it included an amount for idle-asset depreciation in its COM. Therefore, for these final results it is unnecessary for us to modify NSK's reported COP and CV to reflect this depreciation.

Comment 35: Timken asserts that, because (1) it is the Department's practice to allow offsetting interest income only if it is related to COP and (2) NSK has failed to demonstrate that its reported interest income is related to normal production, the Department should revise NSK's reported financing expenses by disallowing NSK's claimed interest income offset.

NSK contends that its interest income offset is appropriate because its short-term interest is generated by short-term investment of its working capital. Therefore, NSK argues, in accordance with the Department's policy to accept interest income offsets when the offset is attributed to short-term investments of working capital, the Department should adhere to its preliminary results determination and continue to accept NSK's claimed offset.

Department's Position: We agree with NSK. We have determined in past AFB reviews that NSK's business records do not separately report the short-and long-term nature of the interest income earned by the company and its subsidiaries and that its alternative calculation of its income offset reasonably reflects short-term interest income related to production activities and the investment of working capital (see *AFBs 93–94* at 66495 and *AFBs 94–95* at 2118). Because there is nothing on the record in these TRBs reviews to suggest that NSK has altered its reporting methodology or that its claimed interest income offset is no longer attributed to short-term investments of working capital, we have not altered NSK's reported financing expenses for these final results.

Comment 36: Timken argues that, because NSK failed to include in its reported COP and CV an amount reflecting NSK's losses and gains on the disposal of fixed assets, the Department should revise NSK's reported COP and CV to include these amounts.

NSK argues that, because gains and losses as a result of the disposal of fixed assets are not related to its production, the Department correctly concluded in its preliminary results that these extraordinary losses and gains should not be included in COP.

Department's Position: We regard gains and losses as a result of the disposal of fixed assets as a normal cost of production (see, e.g., *AFBs 94–95* at 2118). Based on our review of NSK's response, we have found no evidence to suggest that NSK's gains and losses were unrelated to the general production activity of NSK overall. Therefore, we have included this amount as a general expense and recalculated NSK's reported COP and CV accordingly.

5. Clerical and Computer Programming Errors

Comment 37: Timken asserts that, as NTN's preliminary margin calculation computer printouts demonstrate, the Department apparently erred when uploading NTN's U.S. database such that the values for several U.S. variables were misaligned. As a result, Timken contends, the U.S. database the Department relied upon to calculate NTN's 1993–94 margin contains variables for which the wrong values have been reported.

Department's Position: We agree with Timken and have corrected these errors for these final results.

Comment 38: Timken argues that, while the Department properly determined that certain of Koyo's sales to related home market customers were not at arm's length, when transcribing the results of its arm's-length test to its margin calculation computer program for Koyo in order to exclude non-arm's-length sales from its analysis, the Department failed to include the codes for all customers who had sales which were not at arm's length.

While Koyo agrees with Timken that the Department incorrectly transcribed the results of its arm's-length test to its margin calculation program, it argues that Timken's proposed method for correcting this error only addresses half of the problem. Koyo asserts that Timken only identifies the error as the Department's failure to exclude those sales to certain customers which did not pass the arm's-length test. However, Koyo argues, the Department also excluded certain customer codes in its margin calculation program which should have been included on the basis that the sales to these customers were found by the Department to be at arm's length. Koyo contends that the Department's errors are apparently due to the Department's transcribing the results of the arm's-length test for the A–588–054 review to the A–588–604 portion of the margin calculation program. In addition, Koyo asserts, the Department also made certain keypunch errors when transferring customer codes from the arm's-length test to the margin calculation computer program and it should correct these errors as well.

Department's Position: We agree with Koyo. For both the 1992–93 and 1993–94 reviews of both TRBs cases we conducted an arm's-length test for Koyo to determine those home market related customers to which Koyo's sales were not at arm's length. In our analysis we determined these customers for each TRBs case in each review period. Because we used computer programs separate from our margin calculation computer programs for Koyo, it was necessary to transcribe the results of the arm's-length tests for each case in each review period to the corresponding portions of our margin calculation programs. However, when doing so, we inadvertently transcribed the arm's-length test results for the 1992–93 A–588–054 review to the 1992–93 A–588–604 portion of our margin calculation computer program. We made the same error for the 1993–94 reviews as well. This resulted in the inaccuracies both Koyo and Timken describe in their comments above. For these final results we have corrected this error by transcribing the results of our arm's-length test for each case in each review period to the appropriate sections of our margin calculation computer programs. In addition, we agree with Koyo that we also made other keypunch errors when entering certain customer codes in our margin calculation programs, and we have corrected these errors for these final results as well.

Comment 39: Koyo argues that, in accordance with the Department's practice of correcting inadvertent errors in a respondent's response, provided that these errors are obvious from the administrative record and the Department is able to verify the correct information, the Department should correct two errors which occurred within Koyo's reported computer databases.

First, Koyo explains, in its 1992–93 and 1993–94 computer tape files for U.S. further-manufactured sales, it erroneously reported a fixed adjustment amount for its ocean freight and marine insurance. Koyo contends that, as a result, it reported the identical ocean freight and marine insurance amount for every transaction contained in this file. Koyo contends that, in its narrative responses, it clearly explained that its intention was to calculate these adjustment amounts by applying its calculated ocean freight allocation ratio to the net weight it reported for each individual transaction and its marine insurance allocation ratio to the CIF value it reported for each individual transaction. Koyo argues that this methodology would clearly result in a different amount being reported for each transaction. Therefore, Koyo asserts, it is obvious that it made an error in these two adjustments when compiling its U.S. further-manufacturing databases. Furthermore, citing the Department's 1992–93 home market sales verification report dated November 22, 1995, Koyo contends that the Department clearly verified that Koyo's intention was always to calculate these two adjustments using its reported allocation ratios.

Koyo argues that it also inadvertently misreported the nomenclature for one A–588–054 TRB cone which was sold as part of a set in the home market during the 1993–94 POR. Koyo asserts that, after examining the nomenclature of the nine TRBs sets most similar to the TRB set containing this cone, it is apparent that a keypunch error resulted in the incorrect product code being entered into the computer databases for this cone.

Department's Position: Pursuant to the CAFC's decision in *NTN Bearing Corp.* v. *United States*, 74 F.3d 1204 (Fed. Cir. 1995), we will correct alleged clerical errors made by a respondent if the following conditions are met: (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 of the respondent's administrative case brief; (5) the clerical error must not entail a substantial revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification (see *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833 (August 19, 1996)).

Concerning Koyo's claim that it erred when reporting its ocean freight and marine insurance adjustments in its U.S. further-manufacturing computer tape sales file, we have determined that, not only is the error obvious from the record in existence prior to Koyo's submission of its pre-hearing case brief, but Koyo's allegation clearly meets each of the six conditions outlined above. Therefore, we have corrected this error for these final results.

In regard to Koyo's nomenclature error, we have examined the argument and documentation submitted by Koyo in its case brief, and have again found that each of the six conditions described above were met. Therefore, we have also corrected this error for these final results.

Comment 40: Timken argues that, when calculating the amount of home market value-added tax (VAT) to be used when calculating NSK's VAT adjustment, the Department used computer programming language which resulted in the calculation of inaccurate home market VAT values.

Department's Position: We agree with Timken and have corrected this error for these final results.

Final Results of Review

Based on our review of the arguments presented above, for these final results we have made changes in our margin calculations for NTN, Koyo, and NSK. All of our *Prelim Results determinations* concerning the application of BIA, no shipments, and the termination of reviews remain unchanged for these final results (*see Prelim Results* at 25201–25202).

As a result of our comparison of USP to FMV, we have determined that the following margins exist for Koyo for the period October 1, 1992, through September 30, 1993:

For the A–588–054 Review

Manufacturer/Exporter and Margin:
Koyo Seiko—38.07%

For the A–588–604 Review

Koyo Seiko—40.12%

In addition, we have determined that the following margins exist for the period October 1, 1993, through September 30, 1994 for the following firms:

For the A–588–054 Review

Manufacturer/Reseller/Exporter and Margin:
Koyo Seiko—35.27%
Nachi—47.63%
NSK—11.25%
Fuji—6.04%
Kawasaki—47.63%
Yamaha—47.63%
MC International—2.36%
Maekawa—47.63%
Toyosha—47.63%
Nigata Converter—47.63%
Suzuki—47.63%

For the A–588–604 Review

NTN—20.80%
Koyo Seiko—41.04%
Nachi-Fujikoshi Corp.—40.37%
NSK—12.78%
Fuji—____[2]
Kawasaki—40.37%
Yamaha—40.37%
MC International—____[2]
Maekawa—40.37%
Toyosha—40.37%
Nigata Converter—40.37%
Suzuki—40.37%
Showa Seiko—____[2]
Daido—40.37%
Ichiyanagi Tekko—40.37%
Kawada Tekkosho—40.37%
Asakawa Screw Co.—40.37%
Isshi Nut—40.37%

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for Kawasaki, Nigata, Suzuki, and Yamaha for the A–588–054 case and Kawasaki, Yamaha, Nigata, and Suzuki for the A–588–604 case are those rates we determined for these firms for our administrative reviews of the October 1, 1994, through September 30, 1995 period for both the TRBs finding and order (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*, 62 FR 11825, 11843 (March 13, 1997) (*TRBs 1994–95*). The cash deposit rates for Koyo, NSK, Fuji, and MC International in the A–588–054 case and for NTN, NSK, and Koyo in the A–588–604 case are the rates we determined for these firms for our recently published administrative reviews of the October 1, 1995, through September 30, 1996 period for both the TRBs finding and order (*TRBs 1995–96*). The cash deposit rates for all other firms listed above will be the rates outlined above;

(2) For previously reviewed or investigated companies not listed above

[2] No shipments or sales subject to this review. The firm has no rate from any prior segment of this proceeding.

and not listed in *TRBs 1994–95 or TRBs 1995–96,* 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 these reviews, a prior review, or the original less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise;

(4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 finding will be 18.07 percent and 36.52 percent for the A–588–604 order (see *Preliminary Results of Antidumping Duty Administrative Reviews; 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,* 58 FR 51058 (September 30, 1993)).

The cash deposit rate has been determined on the basis of the selling price to the first unrelated customer in the United States. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate. In the case of Fuji, the Department will calculate an assessment rate in the A–588–054 case which reflects the total value of that merchandise which we deemed to meet the criteria of the ''Roller Chain'' principle.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 15, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–10570 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, San Diego; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–008. *Applicant:* University of California, San Diego, La Jolla, CA 92093–0359. *Instrument:* Imaging Plate X-ray Detector for Protein Crystallography. *Manufacturer:* MAR Research, Germany. Intended Use: See notice at 63 FR 11870, March 11, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides:

(1) High efficiency detection of molybdenum K_{α} x-rays at resolution to 0.12nm and (2) exposure time of just 90s allowing use of a single imaging plate under computer control and data readout. The Stanford Synchrotron Radiation Laboratory advised April 15, 1998 (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–10996 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–021. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* Electron Neutralizer. *Manufacturer:* Gammadata-Scienta, Sweden. *Intended Use:* The instrument is intended to be used for the study of the phenomena of superconductivity in high critical temperature materials during angle-resolved experiments. The objective of these investigations is to study the electron structure and physical properties of superconducting materials. In addition, the instrument will be used to train graduate students in their thesis research. Application accepted by Commissioner of Customs: April 7, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–11147 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[C–508–605]

Industrial Phosphoric Acid from Israel; Amended Final Results of Countervailing Duty Administrative Review.

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

ACTION: Notice of amended final results of countervailing duty administrative review.

SUMMARY: On March 20, 1998, the Department of Commerce published in