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June 13, 2014

MEMORANDUM TO: Lynn Fischer Fox
Deputy Assistant Secretary
for Policy and Negotiations

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty Administrative Reviews of Ball Bearings and Parts Thereof from Japan and the United Kingdom; 2009-2010

Summary

We analyzed the case and rebuttal briefs of interested parties in the administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from Japan and the United Kingdom for the period May 1, 2009, through April 30, 2010. As a result of our analysis, we have made changes, including corrections of certain inadvertent programming and other errors, in the margin calculations. We recommend that you approve the positions we developed in the *Discussion of the Issues* section of this memorandum.

Background

On April 21, 2011, the Department of Commerce (Department) published the preliminary results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from Japan and the United Kingdom.[1] The period of reviews is May 1, 2009, through April 30, 2010. We invited interested parties to comment on the *Preliminary Results*. We received case and rebuttal briefs from various parties to these reviews.[2] On July 15, 2011, the Department discontinued these reviews.[3]

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[1] *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Administrative and Changed-Circumstances Reviews*, 76 FR 22372 (April 21, 2011) (*Preliminary Results*).

[2] *See* various parties' Japan case briefs dated June 6, 2011, Japan rebuttal briefs dated June 13 and 14, 2011, United Kingdom case briefs dated June 7, 2011, and United Kingdom rebuttal briefs dated June 14, 2011.

[3] *See Ball Bearings and Parts Thereof From Japan and the United Kingdom: Revocation of Antidumping Duty Orders*, 76 FR 41761 (July 15, 2011) (*Revocation Notice*).

On February 14, 2012, the Department published the *Final Modification for Reviews*.[4] The Department resumed these reviews effective November 29, 2013.[5] On March 25, 2014, we issued a post-preliminary analysis in which we (1) addressed the methodology stated in the *Final Modification for Reviews* as it pertained to these reviews and (2) stated our intent to rescind in part.[6] We invited comments from interested parties for the Post-Preliminary Analysis.[7] We received additional case and rebuttal briefs from interested parties commenting on the Post-Preliminary Analysis.[8]

Company Abbreviations

Asahi – Asahi Seiko Co., Ltd.
JTEKT – JTEKT Corporation
NSK Japan – NSK Ltd.
NSK UK – NSK Europe Ltd., NSK Bearings Europe Ltd., and NSK Corporation
NSK – NSK Japan and NSK UK
NTN – NTN Corporation and NTN Kongo Corporation
Timken – The Timken Company, petitioner

Other Abbreviations

The Act – Tariff Act of 1930, as amended.
AD/CVD – antidumping and countervailing duty
A-A – average-to-average
A-T – average-to-transaction
CAFC – U.S. Court of Appeals for the Federal Circuit
CIT – U.S. Court of International Trade
CBP – U.S. Customs and Border Protection
CEP – constructed export price
CIT – U.S. Court of International Trade
CRU – Central Records Unit
CV – constructed value
DIFMER – difference-in-merchandise adjustment
DP – differential pricing
EP – export price
HTSUS – Harmonized Tariff Schedule of the United States

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8113 (February 14, 2012) (*Final Modification for Reviews*).
[5] *See Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Reinstatement of Antidumping Duty Orders, Resumption of Administrative Reviews, and Advance Notification of Sunset Reviews*, 78 FR 76104 (December 16, 2013) (*Notice of Reinstatement*).
[6] *See* the memorandum to Assistant Secretary Paul Piquado entitled "Administrative Reviews of the Antidumping Duty Orders on Ball Bearings and Parts Thereof from Japan and the United Kingdom for the 2009-2010 Period: Post-Preliminary Analysis Memorandum and Intent to Rescind a Review in Part" dated March 25, 2014 (Post-Preliminary Analysis).
[7] *Id.*
[8] *See* various parties' case briefs dated April 7, 2014, and rebuttal briefs dated April 11, 2014.

ICC – inventory carrying costs
I&D Memo – Issues and Decision Memorandum adopted by a *Federal Register* notice of final determination of an investigation or final results of review
ITC – International Trade Commission
POR – period of review
SAA – Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994)
SG&A – selling, general, and administrative expenses
URAA – Uruguay Round Agreements Act
WTO – World Trade Organization

AFBs Administrative Determinations and Results

AFBs 1 - Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France; Final Results of Antidumping Duty Administrative Reviews, 56 FR 31748 (July 11, 1991).

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

AFBs 9 – Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590, 35620 (July 1, 1999).

AFBs 12 - Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 67 FR 55780 (August 30, 2002).

AFBs 14 – Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part, 69 FR 55574 (September 15, 2004).

AFBs 15 – Ball Bearings and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 70 FR 54711 (September 16, 2005).

AFBs 16 – Ball Bearings and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, 71 FR 40064 (July 14, 2006).

AFBs 17 – Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part, 72 FR 58053 (October 12, 2007).

AFBs 18 – Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part, 73 FR 52823 (September 11, 2008).

AFBs 19 – Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of an Order in Part, 74 FR 44819 (August 31, 2009).

AFBs 20 – Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661 (September 1, 2010).

Scope of the Orders

The products covered by the orders are ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following HTSUS subheadings: 3926.90.45, 4016.93.10, 4016.93.50, 6909.19.50.10, 8414.90.41.75, 8431.20.00, 8431.39.00.10, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.35, 8482.99.25.80, 8482.99.65.95, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.93.30, 8708.93.60.00, 8708.99.06, 8708.99.31.00, 8708.99.40.00, 8708.99.49.60, 8708.99.58, 8708.99.80.15, 8708.99.80.80, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90, 8708.30.50.90, 8708.40.75.70, 8708.40.75.80, 8708.50.79.00, 8708.50.89.00, 8708.50.91.50, 8708.50.99.00, 8708.70.60.60, 8708.80.65.90, 8708.93.75.00, 8708.94.75, 8708.95.20.00, 8708.99.55.00, 8708.99.68, and 8708.99.81.80.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written descriptions of the scope of the orders remain dispositive.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the orders. The orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, *etc.*) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the orders. For unfinished parts, such parts are included if they have been heat-treated or if heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the orders are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of the orders.

For a list of scope determinations which pertain to the orders, *see* the "Memorandum to Laurie Parkhill" regarding scope determinations for the 2009/2010 reviews, dated April 14, 2011, which is on file in the CRU of the main Department building, room 7046, in the General Issues record (A-100-001).

Rates for Non-Selected Companies

Based on available resources, we selected certain companies for individual examination of their sales of the subject merchandise to the United States during the period of review as permitted under section 777A(c)(2) of the Act. For a detailed discussion on the selection of the respondents for individual examination, *see Preliminary Results*, 76 FR at 22373. In the Post-Preliminary Analysis, we changed the rates we applied to respondents not selected for individual examination. For the final results, we continued to apply the rates we applied to respondents not selected for individual examination in the Post-Preliminary Analysis.

Sales Below Cost in the Home Market

Pursuant to section 773(b)(1) of the Act, the Department disregarded sales in the home market that failed the cost-of-production test for Asahi Seiko, NSK Japan, NSK UK, and NTN for these final results of reviews.

Discussion of the Issues

Whether to Use an Alternative Method

Comment 1: Timken argues that the Department should apply its DP analysis in these reviews. Timken contends that the Department applied the DP analysis in every review since March 2013 and refrained from applying its DP analysis only in cases where the analysis would have been pointless, as where there is only a single sale of merchandise, or where there are no reported shipments, or a total AFA rate is applied.

Timken asserts that the post-preliminary results in these reviews depart from this practice and that the Department did not explain why it did not apply its DP analysis which, according to Timken, has been consistently applied in both investigations and reviews since March of 2013. Timken contends that the agency's duty to explain its reasoning and decisions includes the duty to explain departures from norms adhered to in prior cases.

Timken argues that, although the Department may establish a new practice in a single review, provided that it adequately explains both why it is deviating from a former practice and why the new practice is appropriate, the Department in these reviews has not even acknowledged the current practice, let alone explained its reasons for abandoning that practice in these reviews. Timken contends that the Department's failure to apply the DP analysis unfairly singles out these reviews for disparate treatment.

Timken asserts that the Department applied its current practice in analogous circumstances. Timken argues that the Department should apply its current practice, which includes the DP analysis relied upon in every other current review and investigation. Timken contends that fairness and equity considerations provide additional support for reliance on the Department's current practice. Timken claims that these resumed reviews would have been exempt from the new calculation methodology but for a special provision added to cover reviews continued after April 16, 2012 by reason of a final and conclusive court decision.

Finally, Timken conducted the DP analysis with respect to NSK Japan, NSK UK, and NTN and attached the proprietary results to its case briefs.[9]

Caterpillar Inc., Hino Motors Ltd., JTEKT, Mazda Motor Corporation, Nissan Motor Co., Ltd., NSK Japan, NSK UK, NTN, and Yamazaki Mazak Trading Corporation support the Department's application of the A-A method in these reviews. The respondents further argue that the Department repeatedly stated that it would apply its DP analysis only to reviews in which the preliminary results are issued after March of 2013, and it therefore repeatedly declined to apply that analysis in reviews whose preliminary results were issued earlier, as in these reviews. According to the respondents, Timken does not cite to a single instance in which the Department applied the DP framework in a review whose preliminary results were issued before March of 2013, and the respondents claim that they are not aware of any such instance. In conclusion, the respondents assert that Timken provided no valid basis for the Department to deviate from the revised margin calculations set out in its Post-Preliminary Analysis, and the Department should decline to do so.

Asahi argues that Timken included new factual information regarding the use of the DP analysis for specific companies which, according to Asahi, is factual information not previously on the record of these reviews, and goes beyond what is allowed by the Department. For this reason, Asahi argues, the Department should reject Timken's case brief.

Asahi further argues that there is nothing on the record which supports changing the modified calculation for Asahi because Timken only included its DP analysis for two other companies. As a result, Asahi asserts, there is nothing on the record which would permit the Department to modify the results for Asahi.

Finally, Asahi contends that the use of the DP analysis would be contrary to law. Asahi claims that there is no statutory authority to consider DP analysis in administrative reviews. Moreover, Asahi asserts that the Cohen's *d* test used in the DP analysis is not a test for statistical significance and therefore does not constitute evidence of masked dumping.

Department's Position: The Department determines not to apply an alternative methodology for these final results. First, the *Final Modification for Reviews* expressly states as follows;

[9] Because of the proprietary nature of these analyses, *see* Timken's case brief in the Japan review dated April 7, 2014, at 16-17 and Timken's case brief in the United Kingdom review dated April 7, 2014, at 17 for the results of Timken's analyses.

> {T}he Department will compare monthly weighted-average export prices with monthly weighted-average normal values, and will grant an offset for all such comparisons that show export price exceeds normal value in the calculation of the weighted-average margin of dumping and antidumping duty assessment rate. Where the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis*, no antidumping duties will be assessed.[10]

It further states that the A-A method "will also be applicable to any reviews currently discontinued by the Department if such reviews are continued after April 16, 2012 by reason of a final and conclusive judgment of a U.S. Court."[11] As explained above, these reviews resumed as of November 29, 2013.[12] Therefore, the *Final Modification for Reviews* applies to these reviews.

In order to implement the *Final Modification for Reviews*, which was published in connection with the Department's coming into compliance with adverse WTO decisions regarding the denial of offsets for non-dumped sales, the Department issued post-preliminary analyses.[13] These analyses applied the A-A method outlined in the *Final Modification for Reviews*.

Timken argues that the Department should consider an alternative comparison methodology based on its DP analysis, which is also contemplated in the *Final Modification for Reviews*. However, the Department determines that the use of an alternative methodology is not appropriate in these reviews. As the respondents observed, we expressly limited the application of our DP analysis to those reviews for which preliminary results were signed and issued after March 4, 2013.[14] The preliminary results for the instant reviews were published on April 21, 2011.[15] As a result, we determine that it would be inappropriate to use our DP analysis in these reviews.

Further, the CIT held that, because the statute says the Department "may" use the A-T method, the Department has the discretion to decide whether or not to apply the A-T method.[16] Given the timing of the *Preliminary Results* in this review, we exercised our discretion and determined not to consider using the A-T method in these reviews.

In addition, Asahi's arguments about our DP analysis are moot because we did not use our DP analysis in these reviews. Furthermore, with respect to Asahi's argument that we should reject Timken's case briefs, we determine that Timken did not place new factual information on the records of these reviews. Rather, Timken simply performed analyses of data already on the records of these reviews (*i.e.*, certain respondents' U.S. sales data). Accordingly, we have not rejected Timken's case briefs.

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[10] *See Final Modification for Reviews*, 77 FR at 8102.
[11] *Id.*, at 8113.
[12] *See Notice of Reinstatement*.
[13] *See* Post-Preliminary Analysis
[14] *See, e.g., Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part); 2011-2012*, 78 FR 42497 (July 16, 2013), and accompanying I&D Memo at Comment 2.
[15] *See Preliminary Results*.
[16] *See Timken Co. v. United States*, 968 F. Supp. 2d 1279, 1286 (CIT 2014).

Model Match and Differences in Merchandise

Comment 2: NTN asserts that the magnitude of the DIFMER adjustment must be used prior to the differences in the levels-of-trade and contemporaneity factors to resolve ties when selecting the most similar merchandise among otherwise similar products. NTN asserts that the DIFMER adjustment is related directly to the physical characteristics of bearings while the level-of-trade and contemporaneity factors are related to sales of bearings. As such, NTN contends, the Department's methodology used to break the ties among otherwise similar bearing models whereby the magnitude of the DIFMER adjustment is trumped by the differences in the levels-of-trade and contemporaneity factors is contrary to the statutory scheme defining foreign like product and normal value. NTN asserts that sections 773(a)(1) and 771(16) of the Act make it clear that the Department must first define what constitutes foreign like product before it can determine what constitutes normal value, such that only once the appropriate identical or most similar model for normal value is determined can the Department turn to other factors in determining the appropriate sales of such bearings to use in matching U.S. sales to home-market sales. As such, NTN argues, the Department's model-match methodology violates the statutory blueprint for determining "similar" merchandise because the magnitude of the DIFMER adjustment is downplayed in the Department's definition of the most similar foreign like product. NTN contends that while the Department addressed this particular argument in *AFBs 15* and the court upheld the Department's tiebreaking model match methodology in *Koyo Seiko Co., Ltd. v. United States*, 516 F. Supp. 2d 1323 (CIT 2007) (*Koyo Seiko 2007*), the arguments presented before the court were flawed. Specifically, NTN argues, contrary to the Department's assertions before court, the use of the magnitude of the DIFMER adjustment ahead of the differences in the levels-of-trade and contemporaneity factors would not narrow further the pool of similar comparison market sales used to calculate a normal value.

Timken argues that the Department should not modify its methodology. According to Timken, the Department's tie-breaking methodology has been affirmed twice by the CIT. Timken asserts that the CIT directly addressed NTN's argument in upholding the Department's practice.

Department's Position: Our normal practice for comparing U.S. models to similar home-market models is guided by section 771(16)(B) of the Act, which defines foreign like product. Section 771(16)(B) of the Act instructs that there are three criteria that a comparison-market model must meet in order to be considered similar to the U.S. model: 1) the comparison-market model must be produced in the same country and by the same person as the subject merchandise; 2) the comparison-market model must be like the subject merchandise in component material or materials and in the purposes for which used; 3) the comparison-market model must be approximately equal in commercial value to the subject merchandise. To address the criteria in section 771(16)(B)(iii) of the Act, we use the 20-percent "cap" on the DIFMER adjustment to determine whether two different models are approximately equal in commercial value.[17] We regard all the matches to be approximately equal in commercial value where the DIFMER adjustment does not exceed the 20 percent threshold. Our current model match methodology in these proceedings defines similar foreign like product as bearing models that have identical bearing design, load direction, number of rows, and precision grade, that meet an overall 40-percent cap of the sum of the deviations with respect to inner diameter, outer diameter, width,

[17] *See, e.g., AFBs 18*, and accompanying I&D Memo at Comment 2.

and load rating, and that meet the 20-percent cap in the cost difference. Our interpretation of section 771(16)(B)(iii) of the Act does not require us to qualify a bearing model with the smallest cost difference as the most similar product. For additional discussion from a prior administrative review, *see AFBs 15* and accompanying I&D Memo at Comment 3.

The CAFC upheld our tie-breaker methodology, stating, "Commerce did not err in its use of level of trade and contemporaneity to break ties before resorting to the DIFMER."[18] In *Koyo Seiko 2007*, the CIT stated that "though Commerce has in the past applied a DIFMER test before applying a level of trade and contemporaneity test, it is nowhere required that it do so."[19] The court in *Koyo Seiko 2007* also noted that matches that resulted in bearing models with unfavorably higher cost differences likewise had higher DIFMER adjustments to normal value, thus taking into account any distortions.[20]

More recently, the CIT addressed similar arguments by NTN and found that "NTN's argument that, under the statute, it is impossible to choose one sale among alternative sales of the same product until the product itself is defined … is also unconvincing. The DIFMER adjustment, although *related* to differences in physical characteristics in that it is determined by the variable cost of manufacturing, is not itself a physical characteristic" and that the CIT "does not find anything in the statute that precludes Commerce from using DIFMER for a second purpose, *i.e.*, as a means of choosing among matches that already satisfy the model match criteria, only after considering level of trade and contemporaneity."[21]

For the reasons enumerated above, NTN has not adequately explained how the use of the magnitude of the DIFMER adjustment ahead of the differences in the levels-of-trade and contemporaneity factors would increase the accuracy of our methodology. In conclusion, we find that NTN did not present a new facet to the argument concerning our model-match methodology which was not already considered and rejected by the court. Thus, we find no reason to depart from our current methodology of defining similar matches.

Comment 3: NTN argues that the Department should revise its model-match methodology because the current methodology results in comparisons of bearings that are too dissimilar to be compared under the statute. According to NTN, the family-matching methodology the Department previously employed required the exact matching of load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, outer diameter, inner diameter, and width. The Department's current methodology, NTN claims, does not require an exact match with respect to dynamic load rating, outer diameter, inner diameter, and width. NTN asserts that simple logic demonstrates that the family methodology creates closer matches due to its more stringent matching requirements. According to NTN, the Department failed to provide any record evidence showing that the revised methodology is more accurate than the family methodology since adopting the revised methodology.

[18] *See JTEKT Corp. v. United States*, 642 F.3d 1378, 1383 (Fed. Cir. 2011).
[19] *See Koyo Seiko 2007*, 516 F. Supp. 2d at 1338.
[20] *Id*.
[21] *See JTEKT Corp. v. United States*, 717 F. Supp. 2d 1322, 1339-40 (CIT 2010) (emphasis in original).

Timken contends that NTN's proposal is late. According to Timken, the Department introduces changes only after due consideration of interested parties' comments. Timken also asserts that NTN's proposal is unsupported because NTN's arguments have been addressed by the Department before. According to Timken, the Department's model-match reflects a carefully considered judgment to strike a balance between reliance on price comparisons, which is the statutory preference, and constructed value. Timken asserts that, if NTN's arguments were taken to their logical conclusion, the Department should compare identical bearings only, which is clearly an unlawful result.

Department's Position: NTN contends that our current methodology results in comparisons of bearings that are too dissimilar to be compared under the statute, but NTN does not identify even one comparison we made in this review that was inappropriate. NTN's argument appears to revolve around its assertion that "logic" shows that more stringent matching requirements creates closer matches.

NTN's assertion is incorrect. More stringent matching requirements (in this case, permitting no deviations with respect to inner diameter, outer diameter, width, or load rating) do not create closer matches; rather, they exclude reasonable price-to-price comparisons in favor of constructed value. If we were to restrict comparisons to home-market models with a sum-of-the-deviations of zero, we would not find any new, closer matches. As it is, we already prefer home-market models with a sum-of-the-deviations of zero to models with a sum-of-the-deviations greater than zero; NTN's suggestion would simply prevent us from considering the latter in instances where the former do not exist. Thus, NTN's suggestion would not create closer matches. Instead, in instances where there are no home-market models with sums-of-the-deviations of zero, NTN's suggestion would necessarily result in the use of constructed value, even if there was a home-market model with a sum-of-the-deviations that was very small. NTN has not demonstrated, or even attempted to demonstrate beyond simple assertion, that any of the matches we made in this review to home-market models with a sum-of-the-deviations that is greater than zero were inappropriate or unreasonable in the context of sections 771(16)(B) or (C) of the Act.

NTN further asserts that we provided no record evidence showing that the revised methodology is more accurate than the family methodology since adopting the revised methodology. This, too, is incorrect. We said in *AFBs 15* that "the implication of the statute {is} that reasonable price-to-price comparisons are a more accurate measure of dumping than are price-to-constructed value comparisons. Therefore, a model-matching methodology which results in a greater number of reasonable price-to-price comparisons is an inherently more accurate methodology than one which precludes such comparisons" and that "we found that our new model-matching methodology resulted in many more reasonable similar price-to-price comparisons across the AFB proceedings."[22] NTN has not denied that our current methodology results in a greater number of price-to-price comparisons; rather it argued that some resulting matches are too dissimilar. To date, however, with the exception of house versus unhoused

[22] *See AFBs 15*, and accompanying I&D Memo at Comment 2.

bearings, an issued addressed in *AFBs 15*,[23] no party identified a single match we made that we found was unreasonable. Moreover, the courts upheld matches that have been specifically challenged.[24] Further, the courts repeatedly upheld our model match methodology.[25] Accordingly, we have not adopted NTN's suggestion.

Comment 4: NSK argues that the Department should modify its model-matching program to eliminate matches of dissimilar bearings. According to NSK, the search for "more" price-to-price comparisons must have limiting principles and the Department must have either procedures to apply those limiting principles case by case or revisit the model-match methodology to eliminate matching of dissimilar bearings.

NSK presents several matches the Department made which, according to NSK, are problematic. NSK asserts that, when the Department adopted the sum-of-the-deviations methodology, it stated that the methodology would allow reasonable price-to-price comparisons between models with slightly different physical characteristics. According to NSK, the matches it presents show that the Department's premise that the matches will involve only "slightly different" physical characteristics is wrong. NSK contends that these matches show differences in magnitude that are enormous and reflect substantial differences in design, engineering, manufacture, and end use. NSK avers that these models cannot reasonably be compared in accordance with section 771(16)(C)(ii) of the Act.

NSK argues that the Department should return to the family methodology which the Department employed prior to *AFBs 15*. In the alternative, NSK suggests that the Department either 1) reduce the total permissible sum-of-the-deviations to 30 percent and incorporate a maximum deviation of 10 percent on each of the individual physical criteria, or 2) reduce the total permissible sum-of-the-deviations to 20 percent. NSK avers that each of these alternatives would satisfy the Department's view of the statutory preference for price-to-price matches as each produces a significant increase in such matches relative to the family methodology while, at the same time, would better harmonize the model matching with the statute's requirements that the home-market sale selected must "reasonably be compared" to the U.S. sale.

Timken contends that NSK's proposal is late. According to Timken, the Department introduces changes only after due consideration of interested-party comments. Timken also asserts that NSK's proposal is unsupported because it is limited to the identification of four matches that would have been blocked by NSK's more restrictive criteria.

Department's Position: NSK presents no reason why each of the matches it presents are unreasonable within the meaning of section 771(16) of the Act beyond its claim that the deviations with respect to certain characteristics are not "slight." Each of the matches satisfies the criteria of the court-approved methodology, which permits up to a 40 percent sum of the

[23] In the preliminary results of *AFBs 15*, we made some matches of housed to unhoused bearings, and vice versa, but we revised our methodology for the final results to prevent such matches. *See AFBs 15*, and accompanying I&D Memo at Comment 3.
[24] *See, e.g., Koyo Seiko 2007*, 516 F. Supp. 2d at 1336.
[25] *See, e.g., Koyo Seiko Co., Ltd. v. United States*, 551 F.3d 1286 (Fed. Cir. 2008), *SKF USA, Inc. v. United States*, 537 F.3d 1373 (Fed. Cir. 2008), and *JTEKT Corporation v. United States*, 642 F.3d 1378 (Fed. Cir. 2011).

deviations. With respect to slight differences in physical characteristics the complete quote from which NSK cited is as follows: "This new model-matching methodology is much closer to our normal matching practice than is the family-matching methodology in that it allows us to select the single most-similar model and allows us to avoid rejecting reasonable price-to-price comparisons between models with slightly different physical characteristics."[26] NSK misses the overall point of the changed model match methodology. The point there was that, in contrast to the family-matching methodology, in which models with *any* difference in physical characteristics – no matter how small – were precluded from being compared, our revised methodology would permit matches to models with different physical characteristics that could reasonably be compared under section 771(16) of the Act.

NSK claims that the matches it presents cannot be reasonably compared because they reflect substantial differences in design, engineering, manufacture, and end use. Presumably, however, products with differences could reflect differences in design, engineering, manufacture, and end use. This does not mean that those products cannot be reasonably compared in accordance with the statute. NSK has not explained why the differences between the models in the matches it presents are substantial such that they cannot be reasonably compared. NSK's argument is, at bottom, mere assertion and is not supported by record evidence. Accordingly, we have not adopted NSK's suggestions.

Comment 5: Asahi contends that the Department improperly decided not to match identical sales to third countries. Asahi asserts that, because many sales in Japan are of metric-size bearings while those in the United States are predominantly inch-size, there is often not an identical match. Asahi claims that, to ameliorate this, it provided the Department with information for third-country sales in its responses as there are more potential inch-size matches. According to Asahi, the Department expressed a preference for identical comparison but the Department did not use Asahi's third-country sales data. Asahi argues that the Department should use this data for the final results in order to find more identical matching sales.

Timken contends that whether a bearing is metric-sized or inch-sized has never been an independent match criterion, even for identical matches.

Department's Position: We have not used Asahi's third-country sales data for the final results. Section 773(a)(1)(C) of the Act specifies that we use third-country prices when one of three conditions is established: a) the foreign like product is not sold (or offered for sale) for consumption in the exporting country; b) the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to the United States (*i.e.*, the exporting country is not a viable market); c) the particular market situation in the exporting country does not permit a proper comparison with the EP or CEP. None of these conditions applies with respect to Asahi. Asahi reported that it sold the foreign like product in Japan and that its Japanese market was viable.[27] Moreover, no party alleged that a particular market situation in Japan exists which does not permit a proper comparison with the EP or CEP.

[26] *See AFBs 15*, and accompanying I&D Memo at Comment 2.
[27] *See* Asahi's section A questionnaire response dated October 12, 2010, at page A-3.

We do not find the fact that Asahi sells primarily metric-sized bearings in Japan versus inch-sized bearings in the United States to render prices in Japan an improper comparison for the EP or CEP. We do not regard whether a bearing is metric-sized or inch-sized as a physical characteristic in the ball-bearings proceedings; in fact, we specifically instructed respondents to, "{i}n determining what constitutes an identical product, disregard any differences in . . . inch/metric equivalents."[28] Thus, because Asahi's home market is viable and there is no particular market situation which prevents a proper comparison between Asahi's home-market sales and its U.S. sales, we used Japan as our comparison market and there is no cause for us to disregard Asahi's home market and select a third country as the comparison market. Furthermore, in this proceeding we looked for identical matches first, and where there were no identical matches we looked for similar matches using our court-approved model match methodology. If there were no identical matches, and no similar matches, we resorted to CV, as permitted by section 773(a)(4) of the Act which allows us to resort to CV "notwithstanding paragraph (1)(B)(ii)" of section 773(a) which discusses the use of a third-country comparison market.

Comment 6: Asahi argues that the Department improperly matched sales of models with significant physical differences. Specifically, Asahi asserts that high-temperature bearings contain lubricants that are significantly different from the other lubricants in U.S. sales. According to Asahi, the Department found that differences in lubricant types are significant. Moreover, Asahi asserts, the application of the DIFMER adjustment does not allow for the significantly different prices of standard and high-temperature bearings because it only looks to cost. Asahi argues that, because of the differences in lubricants, high-temperature bearings should not be matched to standard bearings.

Timken argues that no modification is needed because the Department already considers high-performance lubricants in the selection of identical bearings. According to Timken, the presence of a high-performance lubricant is not a disqualifying criterion when matching similar bearings in the same manner as a difference in design type would be. Timken avers that a large difference in cost, however, is a disqualifying criterion because the Department rejects comparisons where the DIFMER adjustment would exceed 20 percent of the total cost of manufacture of the U.S. model.

Department's Position: We have not modified our methodology to prevent the matching of high-temperature bearings with standard bearings. The matches of high-temperature bearings with standard bearings satisfy the criteria of the court-approved model-match methodology. Asahi raised this argument previously and we rejected it in *AFBs 17* stating "the characteristics respondents have cited which they contend make bearings dissimilar (*e.g.*, standard versus high-temperature bearings, differences in size of rolling elements, pitch circle diameter, *etc*.) would not have rendered such bearings inappropriate as matches under our previous methodology because these distinctions were not considered in the family-matching methodology. Thus, we could have compared bearings with these differences using the family-matching methodology."[29] We specifically found that high-temperature bearings could be properly matched to standard

[28] *See* the Department's original questionnaire dated August 19, 2010, at Appendix V, page V-5.
[29] *See AFBs 17*, and accompanying I&D Memo at Comment 6; *see also AFBs 15*, and accompanying I&D Memo at Comment 2.

bearings. Furthermore, the CIT upheld our finding regarding Asahi's high-temperature bearings.[30]

Asahi also asserts that the application of the DIFMER adjustment does not allow for the significantly different prices of standard and high-temperature bearings because it only looks to cost. However, nothing on the record supports this assertion.

Billing Adjustments

Comment 7: NTN asserts that in reporting certain billing adjustments for its EP sales, it significantly understated the actual value of adjustments by a fixed factor. NTN explains that is was an inadvertent clerical error on its part. Citing section 735(e) of the Act and 19 CFR 351.224(e), NTN requests that the Department correct this clerical error.[31]

Timken alleges that the Department can lawfully decline to correct the alleged error. Timken argues that with respect to the first case NTN cited, the court affirmed the Department's refusal to correct the error which the Department deemed insufficiently proven. With respect to the second case NTN cited, the corrections were supported with detailed documentary and testimonial evidence. In contrast to these cases, Timken asserts that record evidence contains only limited information NTN submitted in support of the proposed correction and NTN does not explain the magnitude of sales affected or if sales were affected equally.

Department's Position: Record evidence supports NTN's assertion that it understated the actual values of the billing adjustment at issue for all EP sales by a fixed factor.[32] For the final results, we adjusted the margin calculations for NTN to reflect the correct values of billing adjustments applicable to all reported EP sales.

Inventory Carrying Costs

Comment 8: Timken argues that the U.S. ICCs for NSK Japan and NTN should be recalculated using the U.S. affiliates' respective U.S. interest rates. Timken asserts that there is no uniform and consistent agency practice in cases where the respondent claims the parent company bears the cost of carrying the merchandise. With respect to bearings cases, citing as examples *AFBs 18* and accompanying I&D Memo at Comment 14 and *AFBs 20* and accompanying I&D Memo at Comment 3, Timken argues that the Department used the home-market interest rates to impute respondents' U.S. ICCs. In those reviews, Timken contends, the Department relied, however, on *The Timken Co. v. United States*, 858 F. Supp. 206, 213 (CIT 1994) (*Timken*), a pre-URAA case where even the time the merchandise spent in transit to the U.S. affiliate was erroneously

[30] *See JTEKT Corp., et al. v. United States*, 768 F. Supp. 2d 1333, 1344-45 (CIT 2011).
[31] NTN cites *Timken U.S. Corp. and Timken Nadellager, Gmbh v. United States*, 434 F. 3d 1345 (Fed. Cir 2006), and *NTN Bearing Corp. v. United States*, 74 F. 3d 1204 (Fed. Cir. 1995), in support of its request.
[32] We withhold the specific factor because NTN designated it as business proprietary information in its case brief. *See* NTN's October 18, 2010, submission at Exhibit A-7, and NTN's June 6, 2011, case brief at Exhibit 1, page 1 (from which were able to trace the gross unit prices for a number of EP sales applicable to a single invoice to the information in NTN's U.S. sales list, while observing a discrepancy of the same magnitude in the reported adjustments for all examined transactions; we also observed discrepancies of the same magnitude in reported adjustments for other reported EP sales).

included in U.S. ICC. With respect to *AFBs 16*, Timken continues, the court in *JTEKT Corp. v. United States*, 675 F. Supp. 2d 1206, 1260-1262 (CIT 2009) (*JTEKT Corp.*) remanded the final results of the review to explain what Timken alleged as the departure from the Department's normal practice and reconsider the Department's decision to use home-market interest rates to impute U.S. ICCs. Timken notes that in its remand results the Department did not revise its methodology.

With respect to certain non-bearings proceedings, Timken asserts, the Department treated the effect of the payment terms (between the exporter and its U.S. affiliate) differently in its calculation of U.S. ICCs.[33] In these instances, Timken argues, the Department looks to certain factors such as evidence establishing whether the U.S. affiliate did not, in fact, pay until the last day of the payment period, the timing of the parent company's invoicing in relation to shipment, whether the U.S. affiliate had title to the product before payment to the parent company was due, whether the unaffiliated U.S. customer paid the U.S. affiliate or the parent company for sales, or the currency in which the cost of inventory is incurred by the entity that bears the cost of producing or acquiring inventory. Yet in other non-bearings cases, such as in *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 68 FR 6889 (February 11, 2003) (*Stainless Steel Sheet*) and accompanying I&D Memo at Comment 9, Timken asserts that the Department used the U.S. interest rate in imputing U.S. ICCs finding that the U.S. affiliate bears the cost of carrying the merchandise.

Citing *The Timken Co., v. United States*, 673 F. Supp. 495, 513 (CIT 1987), Timken argues that the burden is placed on the respondents to demonstrate the entitlement to a claimed adjustment. Accordingly, citing *AFBs 18* and accompanying I&D Memo at Comment 14, Timken asserts that the respondents have the burden of demonstrating that their parent companies do in fact bear the cost of maintaining the inventory in the United States. Timken contends that the Department should examine when the title transferred to the U.S. affiliate, the dates the U. S. affiliates actually paid their respective parent companies, and whether the payment by the ultimate customer is made to the U.S. affiliate or its parent company. When considering these factors, Timken alleges that NTN and NSK Japan have not demonstrated that their parent companies bear the cost of maintaining inventory in the United States.

Timken argues that 19 CFR 351.402(b) expressly requires adjustments to CEP for expenses related to commercial activities in the United States that relate to the sale to an unaffiliated purchaser and bars adjustments to CEP for expenses that are related to sales to affiliated U.S. importers in the United States. Timken asserts that because the payment terms between the parent and its U.S. affiliate are not related to the resale by the U.S. affiliate, the Department's reliance on the credit extended by the parent company to its U.S. affiliate amounts to an inappropriate offset to an otherwise required deduction from the CEP. Timken argues that such practice is also not consistent with the language in SAA, H.R. Doc. 103-316, at 823.

[33] Timken cites, among others, *Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part*, 65 FR 39367 (June 26, 2000) (*Welded Steel Pipe*), and accompanying I&D Memo at Comment 2, and *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada*, 69 FR 75921 (December 20, 2004) (*Softwood Lumber*), and accompanying I&D Memo at Comment 39.

NTN argues that the methodology the Department used in the current review to impute NTN's U.S. ICCs, with respect to the use of the yen-based interest rate, has been the same that the Department used in the previous five reviews of the proceeding and Timken has not provided plausible reasons for departure.[34] NTN argues that the use of the U.S. interest rate, based on Timken's allegation that the U.S. affiliate bears the cost of carrying merchandise, is contrary to financial and commercial reality. NTN asserts that the physical location or titular ownership of the merchandise does not equate to the financial burden of financing the inventory in the United States. Accordingly, NTN asserts, it is reasonable to use the interest rate applicable to a party that actually finances the merchandise in inventory.

NTN and JTEKT dispute Timken's assertion that the Department's practice on this issue has been inconsistent. NTN and JTEKT argue the Department's practice concerning a determination of which party bears the burden of financing inventory in the United States has been congruent in pre- and post-URAA cases.[35] NSK Japan argues that Timken raises the same issue that the Department rejected in *AFBs 20* and offers no facts to distinguish the way NSK Japan bore the cost of U.S. inventory during *AFBs 20* from that in the current review.

NTN and NSK Japan dispute Timken's assertion that they did not provide sufficient evidence to justify the use of the Japanese interest rate. Citing various portions of their questionnaire responses, NTN and NSK Japan assert that they did, in fact, provide evidence demonstrating that the parent company had absorbed the cost of financing the inventory in the United States. JTEKT also disputes Timken's assertion that the proof of establishing which party bears the cost of inventory is born from the date on which the title to subject merchandise transfers or the date on which the U.S. affiliate pays the parent company. JTEKT contends that Timken cites no statutory authority for this proposition and does not point to specific record evidence invalidating the Department's consideration of the credit terms between affiliates as an inaccurate identification of the party bearing the cost of U.S. ICCs. Citing *Timken*, 858 F. Supp. at 213, NTN argues that Timken itself acknowledged that the Department's methodology has been upheld by the court. Further, NTN argues, while the court remanded the final results in *AFBs 16* to explain an alleged inconsistency in the Department's practice, the Department did not change its methodology in its remand determination. Citing the same remand determination, NSK Japan challenges Timken's assertion that the reasoning in *Welded Steel Pipe* constituted a departure from an established practice or an establishment of a new methodology. Similarly, JTEKT argues that in *JTEKT Corp.,* 675 F. Supp. 2d at 1259, the court upheld the methodology in *AFBs 16* noting that the credit terms constitute evidence of which party bears the cost of U.S. ICCs.

NTN also takes issue with Timken's argument that the payment terms between affiliates do not relate to resale of the merchandise by the affiliate in the United States. NTN argues that Timken's assertion that the economic activity is occurring in the United States ignores that the

[34] NTN cites *AFBs 16*, and accompanying I&D Memo at Comment 11.

[35] NTN compares the decisions in the recent reviews of the proceeding (*e.g., AFBs 20*) with the older reviews of the proceeding such as, among others, *AFBs 9* as well as proceedings unrelated to bearings orders, such as *Welded Steel Pipe*, and accompanying I&D Memo at Comment 2. JTEKT cites *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 63 FR 20585, 20600 (April 27, 1998) and *AFBs 9*.

real economic cost remains the responsibility of the parent company, regardless of where the inventory is held. Thus, NTN argues, Timken essentially removes the expense at issue from its economic reality. Similarly, addressing Timken's assertion that the reliance on credit terms between affiliated parties serves contrary to the intent of 19 CFR 351.402(b), JTEKT argues that in *JTEKT Corp.*, 675 F. Supp. 2d, at 1261, the court observed that the regulation in question governs whether the Department will make the adjustment, not how. Thus, JTEKT argues, contrary to Timken's assertion, there is no "inappropriate offset" to the U.S. ICCs that deducted from CEP simply because the calculation of U.S. ICCs is informed by credit terms between affiliated parties. Likewise, argues JTEKT, contrary to Timken's assertion, the SAA also does not dictate how the Department may calculate the amount of U.S. ICCs to be deducted from CEP. Similarly, argues NSK Japan, the issue of the U.S. ICCs being an eligible deduction from CEP under 19 CFR 351.402(b) is separate from the issue of which interest rate to use for imputing this deduction. NSK Japan argues that, contrary to Timken's assertion, the Department also addressed this facet of Timken's argument in *AFBs 20*.

Department's Position: The Department's position remains unchanged from the *Preliminary Results*. While we recognize that there may be exceptions, it has generally been our longstanding practice that, if the payment terms that the parent company extends to its U.S. subsidiary indicate, in combination with the time the merchandise remains in the U.S. subsidiary's inventory, that the parent company bears the cost of carrying the merchandise for a portion of time the merchandise is in inventory in the United States, we use the parent company's short-term interest rate to calculate that portion of the ICC.[36] Further, in *AFBs 2* and *AFBs 9*, when information on the record indicated that the parent company bore the cost of carrying inventory in the United States on behalf of its U.S. subsidiary, we used Japanese yen-based short-term interest rates for the portion of the inventory-carrying period in which the parent company bore the cost of carrying the inventory in the United States.[37]

We find that that the payment terms between the parent company and its U.S. affiliate is sufficient evidence in itself to establish the identity of the party bearing the cost of merchandise in United States – we generally do not require that respondents report the dates when the U.S. affiliate made payments to its parent company in order to validate the actual adherence to the established payment terms.[38] In the instant review, record evidence demonstrates that the NSK Japan and NTN parent companies bear the cost of carrying the subject merchandise for a portion of time that such merchandise is in inventory in the United States based on their respective payment terms with their U.S. affiliates combined with the amount of time that the subject merchandise remained in inventory. Accordingly, consistent with past practice, particularly in the bearings orders, we used the parent companies' cost of carrying the merchandise for the relevant portion of time.[39]

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[36] *See, e.g., Timken Co. v. United States*, 858 F. Supp. 206, 212-13 (CIT 1994); *High Information Content Flat Panel Displays and Display Glass Therefor From Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32399-400 (July 16, 1991); *AFBs 2*, 57 FR at 28410; *AFBs 9*, 64 FR at 35619-20*; Stainless Steel Sheet*, and accompanying I&D Memo at Comment 9; *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 69 FR 6259 (February 10, 2004), and accompanying I&D Memo at Comment 8.

[37] *AFBs 2*, 57 FR at 28410; *AFBs 9*, 64 FR at 35619-20.

[38] *See AFBs 20*, and accompanying I&D Memo at Comment 3.

[39] *See, e.g., AFBs 16*, and accompanying I&D Memo at Comment 11.

The determination of the appropriate interest rate to use is distinct from the determination of whether the Department should make an ICC adjustment. 19 CFR 351.402(b) states in part, "…the Secretary will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, no matter where or when paid. The Secretary will not make an adjustment for any expense that is related solely to the sale to an affiliated importer in the United States…" It is this underlying distinction that is reflected in the methodology we employed in the so-called pre-URAA CIT decisions and two bearings cases cited by Timken as well as the numerous decisions to which we referred earlier. While Timken alleges inconsistency in that, when dictated by what appear to be similar payment terms, the Department decided to use parent-company rates in some instances and U.S. rates in others, the Department's decisions in the cases mentioned above demonstrate just the opposite. The Department arrived at its final decisions first by determining whether to make an ICC adjustment, then determining which interest rate to use. The determination of which interest rate to use was generally based (pre-URAA or post-URAA, bearings cases or non-bearings cases) on the same criterion dictated not by payment terms alone but rather by the longstanding use of the interest rate of the entity which bore the cost of carrying the merchandise for a portion of time the merchandise was in inventory in the United States based on the facts of each case. *Welded Steel Pipe* was an isolated decision and did not state that we changed our practice.[40] *Softwood Lumber* does not provide sufficient information to ascertain whether we departed from our longstanding practice in our use of U.S. interest rates.[41]

While Timken is correct that payment terms governing transactions between the parent and its U.S. affiliate do not relate to the resale of subject merchandise in the United States *per se*, they are relevant in helping us determine which entity bears the costs of carrying inventory in the United States and the cost of carrying the subject merchandise, which is an expense that relates to the sale of the subject merchandise to the unaffiliated purchaser. We disagree with Timken's contention that measuring the costs to the parent company is contrary to the purpose of imputing the expense in the first place. We impute ICCs to measure any impact different inventory-carrying periods in the U.S. and home markets may have on pricing practices in each market. If the parent firm absorbs these costs it has a different effect on pricing practices as opposed to if its U.S. affiliate absorbs such costs. Regardless of whether the parent or affiliate holds the inventory, it is the entity that absorbs the cost which determines the ultimate cost. Whether an expense is an actual expense or an imputed expense does not change the reality that a parent company can absorb selling expenses on behalf of its U.S. affiliate that relate to economic activity in the United States. If such is the case we still measure the cost to the parent company in making a deduction from CEP for such selling expenses.

In addition, we see no conflict with our practice and URAA revisions to the Act. While it is true that we do not include the time before importation in the U.S. ICCs that we deduct from CEP, this is because we do not consider the expenses to be related to economic activity in the United

[40] *See Welded Steel Pipe*, and accompanying I&D Memo at Comment 2.
[41] *See Softwood Lumber*, and accompanying I&D Memo at Comment 39.

States.[42] It is still possible for a parent firm to absorb the cost of carrying inventory once the merchandise enters the United States and this is the reality in the instant case that we try to measure in making our CEP deduction for U.S. ICCs. Accordingly, we determine that the use of Japanese interest rates for ICCs in this case is both in accordance with our longstanding practice and our application of such rates in our calculations for NSK Japan and NTN was appropriate, based on the evidence provided by each company.

Comment 9: NTN asserts that the Department incorrectly calculated its ICCs in the United States because, the Department incorrectly determined the total number of days its CEP sales were in inventory in the United States. NTN points to certain information in its Section C questionnaire response which NTN asserts supports its claim of the Department's error. Citing section 735(e) of the Act, 19 CFR 351.224(e), and *Alloy Piping Prods. v. Kanzen Tetsu Sdn. Bhd.*, 334 F. 3d 1284, 1291 (Fed. Cir. 2003), NTN argues that the Department is obliged to correct its error.

Timken commented that it takes no position on this issue.

Department's Position: We agree with NTN that we calculated its U.S. ICCs incorrectly. Our calculation of the total number of days in inventory in the United States included, inadvertently, the number of days in ocean transit. It is our policy is to treat ICCs applicable to the time period associated with ocean transit as having occurred in the home market, not in the United States.[43] Accordingly, for the final results of this review, we adjusted the margin calculations for NTN to reflect the recalculation of ICCs in the United States.

Comment 10: Timken argues that to be consistent with the Department's practice concerning ICCs, the Department should recalculate Asahi's U.S. ICCs by adding movement and packing expenses to the cost of manufacture, which is the basis for "bearing value." Specifically, Timken argues that in its supplemental questionnaire, the Department instructed Asahi to revise its U.S. ICC calculation by basing "bearing value" on the cost of manufacture and adding the cost associated with placing the merchandise in inventory, including freight, other movement expenses, and packing expenses. Timken asserts that Asahi has not complied with the Department's instruction and although the Department accepted Asahi's U.S. ICC calculation for the *Preliminary Results*, for the final results, the Department should recalculate Asahi's U.S. ICCs in a manner that is consistent with its practice.

Asahi responds by arguing that it reported to the Department that it does not directly link sales of specific products to production of the same products. Asahi explains that because it has many products, warehouses, and product groups, it has no reason from a business standpoint to directly link sales of specific products to production of the same products. As a result, Asahi argues, it does not keep information to calculate ICCs on a model-specific basis as requested by the Department and therefore, it reported its ICCs using the standard accounting method that conforms to the generally accepted accounting principles in Japan.

[42] *See* SAA at 823 (". . .under new section 772(d), constructed export price will be calculated by reducing the price of the first sale to an unaffiliated customer in the United States by the amount of the following expenses (and profit) *associated with economic activities occurring in the United States*. . .") (emphasis added).
[43] *See, e.g., AFBs 16*, and accompanying I&D Memo at Comment 13.

Asahi argues that the methodology it used to calculate ICCs is the same methodology it uses in its actual cost calculations. According to Asahi, the figures reported for ICCs are tied directly to Asahi's accounting records in the way that Asahi has always reported, and which has always been accepted by the Department. Asahi explains that its methodology for calculating ICCs was explained in its section D questionnaire responses. Asahi explains further that the accepting the standard accounting method of the country where the company is located is in accordance with the Department's practice.

Asahi argues further that had the petitioner found Asahi's U.S. ICC calculation incorrect in any way, it should have commented at the time Asahi submitted the information on the record, not at this late date after the data has been accepted by the Department. Asahi asserts that if the Department decides to make a change to its U.S. ICC calculation, it would not have an opportunity to comment on the change for the final results, thus making for a lack of administrative record.

Department's Position*:* We agree with Timken. In our December 2, 2010, supplemental questionnaire, we specifically requested that Asahi do the following:

> According to Appendix V of our questionnaire, inventory-carrying costs should be calculated on as specific a basis as possible (*e.g*., model, product group, warehouse, etc.). Please revise your calculation of inventory-carrying costs on as specific a basis as possible. Also, explain why the basis you chose is as specific as possible for you to calculate inventory-carrying costs. In addition, we request that you recalculate your ICCs using our standard formula, as given below:
>
> (Number of Days in Inventory/365) * Interest Rate * Bearing Value
>
> In your recalculation, the "Bearing Value" must correspond to the cost of manufacturing the merchandise plus those costs associated with placing the merchandise in inventory (*e.g.*, the freight and other movement expenses associated with transporting the merchandise from the factory to the warehouse as well as packing expenses) consistent with the methodology described in *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 13. Please provide worksheets demonstrating your recalculation.

Asahi misunderstands Timken's argument in that the petitioner is arguing that Asahi did not recalculate its ICCs using the standard formula provided in our supplemental questionnaire. Asahi' response that it does not keep information to calculate ICCs on a model-specific basis is not on point as that response is applicable to the first part of our supplemental question concerning ICCs, but not applicable to the second part of supplemental question. Therefore, for the final results, we recalculated Asahi's ICCs using the formula outlined in our supplemental

question regarding ICCs because our standard practice concerning ICCs is to include the bearing value in the standard ICC formula.

Selling, General, and Administrative Expenses

Comment 11: NTN objects to the Department's reallocation of NTN's U.S. selling expenses on the basis of fiscal-year value of sale, instead of accepting NTN's allocation of fiscal-year expenses on the basis of POR value of sales. NTN argues that the Department allows respondents to report fiscal year expenses, instead of POR-specific expenses, in situation where fiscal year differs from POR by one or, in some cases, two months. NTN argues that under such an approach, fiscal-year expenses serve as the proxy for POR-specific expenses and, as a result, NTN believes that the correct basis for the allocation of the fiscal-year expenses is POR-specific value of sales. NTN argues that the Department accepted this methodology in the prior administrative reviews.

Timken argues that the Department's rationale for the reallocation of selling expenses is both obvious and compelling. Timken asserts that the Department's reallocation simply results in a calculation that relies on expenses and sales data that reflect the same period. Citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 76913 (December 23, 2004), and accompanying I&D Memo at Comment 26 and *Fuyao Glass Industry Group Co. v. United States*, 27 CIT 1892, 1917 (CIT 2003), Timken argues that NTN should not be allowed to use an allocation that mixes fiscal year expenses and POR value of sales and the Department's acceptance of fiscal year data instead of the POR data does not inform this issue. Citing *NSK Ltd. v. United States*, 217 F. Supp. 2d 1291, 1308 (CIT 2002) (*NSK Ltd.*) and *Stainless Steel Sheet and Strip in Coils From Mexico; Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*S4 from Mexico*) and accompanying I&D Memo at Comment 4, Timken argues that the Department's acceptance of a particular allocation method in a prior review does not bind the Department to that method in the current review.

Department's Position: We disagree with NTN that it is appropriate, as it alleges, to allocate NTN's fiscal-year expenses on the basis of POR-specific value of sales. It is true that, depending on the proximity of the company's fiscal year end in relation to the end of the POR, a company may report fiscal year expenses as a proxy for POR-specific expenses.[44] NTN is confusing, however, this reporting requirement with the appropriate basis for allocating period expenses, no matter whether they are specific to a fiscal year or to the POR. That is, for consistency purposes, fiscal year expenses (the numerator) should be allocated on the basis of fiscal-year value of sales (the denominator) and, similarly, POR-specific expenses should be allocated on the basis of POR-specific value of sales. In order to match sales during the period (whatever that period may be) with the expenses that were incurred to generate such sales, we find it appropriate to associate expenses and sales using a uniform period of time. NTN cited no precedent where it has observed an allocation that contradicts this principle and the Department is aware of none. Lastly, we find no merit in NTN's argument that the Department's acceptance of NTN's method

[44] *See, e.g.*, the original questionnaire dated August 19, 2010, at D-2, (allowing a company to report cost of production and constructed value information based on the company's fiscal year if it ends within three months of the POR after contacting a Department official).

of allocation in prior reviews somehow validates a calculation that we find in this review to contain an inherent distortion. To this end, NTN never attempted to demonstrate that its allocation method is not distortive. Consistent with our practice, we have continued to rely on reallocated U.S. selling expenses for the final results of review.[45]

Comment 12: NTN posits that the Department should have allowed the exclusion of certain selling expenses, namely, the "Write-Off of Doubtful Accounts" and "Sales Commissions" in NTN's reporting of U.S. indirect selling expenses. NTN asserts that it believes such expenses should be excluded from U.S. indirect selling expenses. Further, NTN asserts that it was improper for the Department to reject an offset to U.S. indirect selling expenses for interest income which NTN imputed for its deposits of estimated antidumping duties. NTN asserts that it foregoes the interest on monies it deposited with the U.S. government that otherwise would have earned interest.

Timken argues that NTN offered no explanation as to why the expenses for writing off of doubtful accounts and sales commissions should be excluded from U.S. indirect selling expenses. Timken asserts that NTN merely states that these items represent non-operating expenses but offered no support for this argument. Timken argues that in response to the Department's request to explain NTN's original exclusions, NTN modified its reporting to include the items in question, without offering an argument why they should not be included.

With respect to the imputed interest income for antidumping duty deposits, Timken asserts that the Department addressed this issue in great detail in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320, 33347-48 (June 18, 1998) and the Department's rationale was upheld in *NSK Ltd.*, 217 F. Supp. 2d, at 1308-09. Timken asserts that NTN does not cite the Department's prior decision and offers no reason for the Department to depart from its prior decision.

Department's Position: In our supplemental questionnaires, dated November 10, 2010, and December 15, 2010, we questioned the nature of each of these adjustments and the rationale for NTN's exclusion of the expenses in question and NTN's inclusion of the income item in question in its reporting of U.S. indirect selling expenses.

With respect to the "Write-Off of Doubtful Accounts" expense, NTN's response was that "{NTN's U.S. affiliate} had previously excluded these expenses based on its belief that these were non-operating expenses that were unlike other, general selling expenses."[46] For the *Preliminary Results*, we instructed NTN to include this item in its recalculation of U.S. indirect selling expenses. It is our practice to include bad-debt expenses in the total pool of indirect selling expenses because they relate to the sales of the company and NTN has not demonstrated that these expenses related to sale of non-subject merchandise.[47]

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[45] *See, e.g., S4 from Mexico* and accompanying I&D Memo at Comment 4.
[46] *See* NTN's January 7, 2011, questionnaire response at 8.
[47] *See Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India*, 73 FR 16640 (March 28, 2008) and accompanying I&D Memo at Comment 2, and *AFBs 14* (where the Department included the expenses in question in U.S. indirect selling expenses for NTN).

With respect to the "Sales Commissions" expense, NTN's response was that "the value…was excluded…because {NTN's U.S. affiliate} had previous{ly} reported these commissions in a separate field. The nature of these commissions has now changed and {NTN's U.S. affiliate} has added them to the {pool} of allocable expenses."[48] For the *Preliminary Results*, we instructed NTN to include this item in its recalculation of U.S. indirect selling expenses. The record demonstrates that NTN reported no commissions as direct selling expenses applicable to its CEP sales.[49] Further, in response to our request to explain the exclusion of "sales commissions," NTN merely modified its reporting to include the item in question, without proffering an argument why it should not be included[50] in the pool of U.S. indirect selling expenses. In its case brief, NTN again argued that the sales commissions should be excluded from U.S. indirect selling expenses, but did not explain why. Moreover, NTN also has not demonstrated that these expenses related to sales of non-subject merchandise.

With respect to the imputed interest income associated with NTN's U.S. affiliate's cash deposits of estimated ADs, NTN's questionnaire response offered the same explanation that NTN now offers in its case brief.[51] For the *Preliminary Results*, we denied an offset to NTN's U.S. indirect selling expenses for this imputed income item. Our rationale for doing so is because the respondents are not required to capture expenses (*e.g.*, interest expenses) associated with ADs or cash deposits, as part of the pool of the selling expenses to be deducted from the U.S. price; likewise, we do not account for income items related to the participation in the AD proceeding.[52] Accordingly, it is logical that associated interest expense or interest income, actual or imputed, arising from underpayment or overpayment of AD cash deposits would also be excluded.[53]

A similar issue involving actual interest income earned by a company was raised in a later proceeding where we have stated as follows:

> {A}lthough the Department does not include antidumping duties, cash deposits, and certain fees associated directly with participation in certain antidumping duty cases in its margin calculations, it is unclear whether this methodology applies, or should apply, to interest earned (or owed) on antidumping duty deposits. Consequently, we are currently developing a policy regarding whether certain interest earned (or owed) on antidumping cash deposits, such as the interest income at issue here, should be taken into account in the calculation of financial expenses.[54]

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[48] *See* NTN's January 7, 2011, questionnaire response at 8.
[49] *See* the U.S. sales file accompanying NTN's Section C response, dated October 18, 2010.
[50] *See* NTN's January 7, 2011, questionnaire response at 8.
[51] *See* NTN's December 8, 2010, questionnaire response at 16.
[52] *See Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Final Results of Antidumping Duty Administrative Review*, 63 FR 13204 (March 18, 1998), and accompanying I&D Memo at Comment 4.
[53] *See, e.g.*, AFBs 12 and accompanying I&D memo at 40 (where we denied interest income earned on AD deposits as an offset to financial expenses as a result of our determination that this item is realized as part of the process attendant to the AD order).
[54] *See Certain Frozen Warmwater Shrimp From Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47551 (September 16, 2009) (*Shrimp from Thailand*).

In *Shrimp from Thailand*, the Department did not make the adjustment for interest income. Nevertheless, this case made no mention of considering *imputed* interest income and its subsequent offsetting of U.S. indirect selling expenses. Absent the knowledge as to the outcome of ongoing or future segments of a proceeding, it is arbitrary to conclude, as NTN has done in this review, that its AD deposits will produce an interest income, instead of an interest expense. In other words, because the item in question was imputed for purposes of a questionnaire response and not actually recognized in NTN's affiliate's books, our rejection of this item offsetting NTN's U.S. indirect selling expenses in effect forecloses a favorable result NTN would have obtained from its own self-serving claim. In addition, there is no record evidence that supports NTN's claim that it would have otherwise earned interest on its cash deposits. For the reasons discussed above, we continue to deny an offset to NTN's reported U.S. indirect selling expenses for imputed interest income on AD cash deposits.

Comment 13: NTN argues that the Department should not have included a certain "miscellaneous loss" expense in its recalculation of NTN's general and administrative expenses because the expense in question is not incurred invariably and was classified as a non-operating expense.

Timken argues that the expense in question falls within the category of a recurring cost that is incurred to generate sales of bearings. Timken also argues that NTN did not justify with sufficient explanations and supporting documentation the exclusion of certain other miscellaneous and impairment loss expenses from its reported general and administrative and/or selling expenses.

Department's Position: For the final results of this review, we determine that the record supports the inclusion of certain miscellaneous and impairment loss expenses in the pool of NTN's general and administrative expenses. Because the nature of expenses and the parties' comments regarding this issue involve the use of NTN's business proprietary information, for more details on our position on this issue, *see* the NTN final analysis memorandum dated concurrently with this memorandum.

Comment 14: Based on record evidence, Timken argues that it is unclear whether NSK UK's reported SG&A expenses are inclusive of administrative services performed on NSK UK's behalf by its parent company, NSK Japan. Citing NSK UK's section A questionnaire response, Timken argues that the record confirms that NSK Japan is the parent company of NSK Europe Ltd., which wholly owns NSK UK. Further, citing NSK UK's section D questionnaire response, Timken claims that the record also demonstrates that NSK Europe Ltd. provides management and other services to NSK UK that should be accounted for in NSK UK's reported SG&A expense. Timken argues that, for the final results of review, the Department should ensure NSK UK's reported SG&A expenses are inclusive of allocated amounts for administrative services performed by NSK Japan.

Department's Position: In our original AD questionnaire we instructed NSK UK to include an amount for administrative services performed on its behalf by its parent company or other affiliated party in its reported SG&A expense.[55] Based on NSK UK's section D questionnaire

[55] *See* the Department's original AD questionnaire for NSK UK, dated August 19, 2010, at D-14.

response, in a supplemental questionnaire we asked NSK UK to "confirm that all administrative expenses performed by your company, or on your company's behalf by its parent company or affiliated party, are captured in this category. Provide details on the administrative expenses that were incurred by affiliates on behalf of NSK UK Ltd. and how they were calculated. Demonstrate that any allocations you made were not distortive."[56] Based on its supplemental response,[57] we accepted NSK UK's reported SG&A expenses for the *Preliminary Results*. Based on record evidence,[58] for these final results of review we continue to find that NSK UK's reported SG&A expenses satisfy the requirements set forth in our original questionnaire and are inclusive of all applicable expenses.

Request to Reject Factual Information and Targeted Dumping Analyses

Comment 15: On December 2, 2010, Timken submitted certain factual information consisting of the Department's determinations in previous investigations that pertain to the methodology for and analysis of targeted dumping. In its June 6, 2011 case brief, Timken had used this information as the methodological basis for analyzing the extent of targeted dumping pertaining to the Japanese respondents' sales during the POR. Timken used the results of this analysis as an additional support for its argument to use the A-T comparison methodology, without offsets for non-dumped sales, for the final results of this review with respect to all Japanese companies that the Department investigated individually in the *Preliminary Results*.

In its June 6, 2011 case brief, NTN renewed its previous request to reject Timken's December 2, 2010, submission arguing that it is irrelevant to the review at hand, was in violation of the regulations concerning the submission of factual information, and was not solicited by the Department. Specifically, NTN argues, Timken's labeling of its submission is ambiguous as to whether the submitted information in factual in nature and, if it is, Timken failed to provide the required certification.

Timken asserts that its December 2, 2010, submission is relevant in this review because it supports Timken's targeted dumping analysis, which in turn supports the use of alternative comparison methodology. Citing *Certification of Factual information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491, 7497 (February 10, 2011), Timken argues that no certification of accuracy of factual information is necessary when a party submits another party's information or published material.

Further, NTN also argues that the targeted dumping analysis applies only in investigations and, thus, is irrelevant to the instant review. NTN argues that the Department did not indicate that it would use the targeted dumping analysis in this review nor did it claim the statutory support for doing so in the context of an administrative review. Further, NTN argues, Timken cited no precedent that supports the use of a targeted dumping analysis in an administrative review. For this reason, and based on NTN's request to reject Timken's December 2, 2010, submission, NTN

[56] *See* NSK UK's section D questionnaire response dated October 18, 2010, at 27-28, 31, and exhibit D-11 (NSK UK's DQR Response); *see also* the Department's supplemental questionnaire for NSK UK, dated January 25, 2011, at 2.
[57] *See* NSK UK's supplemental questionnaire response, dated February 8, 2011, at 4-6 and exhibit S-21.
[58] *Id.; see also* NSK UK's DQR Response.

also posits that the Department must remove Timken's targeted dumping analysis from the record. NTN asserts that doing otherwise violates the procedural controls for due process.

Department's Position: On November 15, 2010, we extended the deadline for submitting factual information until December 2, 2010.[59] Accordingly, Timken's submission was timely. Further, because the documents the Department issued in an unrelated proceeding comprise Timken's submission, the certifications from Timken's attorney and company official were not required at the time.[60] Therefore, we find no basis for rejecting the submission in question. Further, the issue of relevancy of Timken's targeted dumping analyses in the Japan review is moot because we determined that it is appropriate to grant offsets for non-dumped sales for the final results of these reviews, as explained in Comment 1, *supra*.

Contemporaneous Sampled Sales

Due to the extremely large number of home-market and U.S. sales transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we followed our long-standing practice in this proceeding, and sampled home-market and U.S. sales for certain respondents in these reviews.[61] When a selected respondent made more than 10,000 CEP sales transactions during the POR, we reviewed CEP sales that occurred during six sampled weeks we selected within the POR.[62] Also, we sampled home-market sales to calculate normal value. When a selected respondent had more than 10,000 home-market sales transactions on a country-specific basis, we used home-market sales in (1) sample months that corresponded to the sample weeks we selected for CEP sales, (2) a month prior to the POR, and (3) the month following the POR.[63]

Comment 16: In its 2011 case briefs for Japan and United Kingdom, NSK argues that the Department did not correctly match sampled sales. NSK argues that, for example, based on the Department's consistent and long-standing methodology, a U.S. sale in sample week four (November 1-7, 2009) can match to only the home market sales made in the same sample month (*i.e.*, November 2009), the previous sample month (*i.e.*, October 2009), or the next sample month (*i.e.*, January 2010). However, according to NSK, the Department's preliminary margin calculation program erroneously matches sampled U.S. sales to home market sales made as many as three months prior to the month of the U.S. sample week. For example, NSK explains, the Department's preliminary margin calculation program can match a U.S. sale made in January 2010 to home market sales made in October 2009 despite the existence of two sample periods (*i.e.*, January 2010 and November 2009) between the U.S. sale and home market sale. NSK contends that this was done without explanation and it assumes that this error was inadvertent. NSK suggests that the Department correct the computer program to fix this inadvertent error.

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[59] *See* letter to all interested parties dated November 15, 2010.
[60] *See* 19 CFR 351.303(g) (2010).
[61] *See, e.g., Ball Bearings and Parts Thereof From France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Preliminary Results of Changed-Circumstances Review, Rescission of Antidumping Duty Administrative Reviews In Part, and Intent To Revoke Order In Part*, 75 FR 22384, 22385 (April 28, 2010), unchanged in *AFBs 20*.
[62] *See Preliminary Results*, 76 FR at 22375.
[63] *Id.*, 76 FR at 22376.

Timken argues that the methodology applied in the *Preliminary Results* is consistent with the Department's regulations and that it should not be modified. However, Timken suggests that the Department modify its description of the methodology in the final results to more accurately explain the method used.

Department's Position: We agree with NSK. Since *AFBs 1*, for respondents which provided sampled sales databases, we sought to match the bearing model sold in the United States in one of the sampled weeks to bearings sold in the corresponding home-market month, or to the immediately preceding sampled home-market month, and or to the immediately following sampled home-market month.[64] In the Post-Preliminary Analysis, we fixed our computer program as NSK suggested.[65] We did not receive any comments concerning this issue in the post-preliminary case briefs.[66] Therefore, for these final results we have not changed the programming from the Post-Preliminary Analysis.

Treatment of Repacking Expenses

Comment 17: NSK UK argues that, consistent with *NSK Ltd. v. United States*, 390 F.3d 1352, 1357 (Fed. Cir. 2004) and the subsequent remand redetermination[67] the Department should have treated NSK UK's U.S. repacking expenses as movement expenses rather than selling expenses. NSK UK contends that the Department treated these expenses as such and recalculated NSK UK's weighted-average dumping margin in the *NSK 2005 Remand Determination*.[68] For these final results, it argues, the Department should follow its previous determinations and correct its calculations accordingly.

Timken contends that in the *NSK 2005 Remand Determination*, the Department's decision was based on the fact that record evidence showed that repacking was done for some of NSK UK's U.S. customers, but there was no evidence demonstrating that there was a repacking requirement. Timken argues that, in this administrative review, record evidence does not demonstrate on what basis repacking was done for NSK UK's U.S. customers during the period of review. Furthermore, Timken argues, NSK UK does not provide an explanation as to why the Department should find these expenses to be most accurately classified as movement expenses other than the fact that it did so in the *NSK 2005 Remand Determination.*

Department's Position: NSK UK explains that repacking was only done to a portion of its U.S. sales during the POR.[69] Consistent with the CAFC's decision and the *NSK 2005 Remand Determination*, we treated NSK UK's reported repacking expenses as movement expenses rather than selling expenses for these final results.[70]

[64] *See AFBs 16*, and accompanying I&D Memo at Comment 30.
[65] *See* Post-Preliminary Analysis and the post-preliminary macro program at Part 7-B.
[66] *See* various parties' case briefs dated April 7, 2014.
[67] *See NSK Ltd. v. United States – Final Results of Redetermination Pursuant to Court Remand*, Consol. Court No. 98-07-02527 at 2 (May 18, 2005) (*NSK 2005 Remand Determination*).
[68] *Id*.
[69] *See* NSK UK's section C response dated October 18, 2010, at 30-31.
[70] *See* the NSK UK final analysis memorandum for further details.

Rescission of Review for No Shipments

Comment 18: SNR UK requests that the Department rescind the 2009-2010 administrative review of SNR UK because it had no shipments of subject merchandise during the POR. SNR UK asserts that it submitted the required no-shipment letter and that the Department confirmed that SNR UK had no shipments.[71] Therefore, it claims, the Department has no basis to continue the review for this respondent.

SNR UK explains that it ceased operations in 2007 and is no longer a producer or exporter of subject merchandise. It asserts that the Department's practice is to rescind the review of no-shipment respondents because there are no entries to review and, therefore, are no entries to assess. Furthermore, it states that, in accordance with 19 CFR 351.213(d)(3), the Department may rescind the review of a respondent if it has not made any shipments, entries, or sales of subject merchandise within the period of review.

Timken argues that Department was correct in its decision not to rescind the review with respect to SNR UK because doing so would result in any entries of SNR UK's products sold through resellers being liquidated at the rate as entered (*i.e.*, 0.32%) rather than the all-others rate. The Department's decision not to rescind with respect to SNR UK for the *Preliminary Results*, Timken asserts, is also consistent with prior decisions.[72]

Department's Position: Our prior practice since implementation of the 1997 regulations concerning no-shipment respondents was to rescind the administrative review if the respondent certifies that it had no shipments and we confirmed through our examination of data from CBP that there were no shipments of subject merchandise during the POR.[73] As a result, in such circumstances, we normally instructed CBP to liquidate any entries from the no-shipment respondent at the deposit rate in effect on the date of entry. In our May 6, 2003, "automatic assessment" clarification, however, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding.[74]

Based on SNR UK's assertion of no shipments and confirmation of that claim by examination of CBP data, we continue to determine that SNR UK had no shipments to the United States during the POR.[75] In addition, consistent with the May 2003 clarification, we find it appropriate not to rescind the review in part in these circumstances but, rather, to complete the review with respect to SNR UK and issue appropriate instructions to CBP based on the final results of the review.

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[71] *See* letter from SNR UK dated July 15, 2010.
[72] *See, e.g., Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010) (*Magnesium Metal from Russia*).
[73] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27393 (May 19, 1997), and *Oil Country Tubular Goods from Japan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 70 FR 53161, 53162 (September 7, 2005), unchanged in *Oil Country Tubular Goods from Japan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 95 (January 3, 2006).
[74] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).
[75] *See Preliminary Results*, 75 FR at 22373.

As we stated in the *Preliminary Results*, because "as entered" liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, and consistent with our determination in *Magnesium Metal from Russia*,[76] we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by SNR UK and exported by other parties at the all-others rate.

Respondent Selection Methodology

Comment 19: Asahi comments that, although the Department later in the administrative review accepted Asahi as a voluntary respondent and has calculated a rate for Asahi using its own data, the Department nonetheless should have selected Asahi as a mandatory respondent as this issue is pertinent in this administrative review and potential future administrative reviews.

Asahi asserts that the Department in this administrative review selected only two mandatory respondents because it stated that it had limited resources and could only handle the workload for reviewing two companies. Citing *Zhejiang Native Produce and Animal By-Products Import & Export Corp. v. United States*, 637 F. Supp. 2d 1260, 1264 (CIT 2009) ("Four, does not appear to satisfy the requirement that the number be "large" under any ordinary understanding of that word."), Asahi argues that the courts have held that two is neither a large number nor is it a sufficient number of respondents under the antidumping duty law.

Asahi argues that while it clearly is not an exporter "accounting for the largest volume" of exports, it was regularly reviewed over many years, and it has demonstrated a long history of low antidumping duty rates. According to Asahi, it maintained an average AD margin of 1.15 percent for over 16 administrative reviews. Asahi argues that if it were to have its rate calculated using only other Japanese exporters, and particularly the largest exporters, it would have had a rate much greater over the years.

Citing *Shandong Huarong General Group Corp. et al v. United States*, 31 CIT_, Slip Op. 07-04 (CIT, January 9, 2007), Asahi argues that the CIT stated that where the Department does not use the information of a company to determine a rate, there must be some reasonable relationship to the actual circumstances of the company in determining a rate. Asahi argues that calculating a rate for Asahi using the largest exporters from Japan would be distortive based on Asahi's actual history.

Asahi argues that the Department should take into account that it is differently situated in the marketplace. Asahi asserts, for example, it has CEP sales and sells in the U.S. primarily through distributors. According to Asahi, its sales must be differentiated from companies which have EP sales and sell primarily to original equipment manufacturers or through many distributors. Asahi contends that to do otherwise would not fairly reflect its selling and pricing practices.

Citing *Proposed Methodology for Respondent Selection in Antidumping Proceedings; Request for Comment*, 75 FR 78678 (December 16, 2010), Asahi argues that the Department should apply its proposed policy change for the selection of mandatory respondents, where it would

[76] *See Magnesium Metal from Russia*.

spread out the selection criteria to not only the largest exporters by volume, to Asahi in every review.

Timken responds to Asahi's argument by stating that the issue of it not being selected as a mandatory respondent is not relevant because the Department did select Asahi as a voluntary respondent and thus the issue is moot.

Department's Position: As we explained in our August 18, 2010, memorandum entitled, "Ball Bearings and Parts Thereof from Japan – Selection of Respondents," in selecting respondents for individual examination, we consider our resources including our current and anticipated workload and deadlines coinciding with the segment of the proceeding in question.[77] Due to the fact that our resources at the time were limited, we determined that we could examine two exporters/producers of ball bearings and parts thereof from Japan.[78] Section 777A(c)(2) of the Act permits us to examine (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. As such we selected NSK Japan and NTN, the two largest exporters based on volume of exports into the United States, for individual examination.[79]

On November 15, 2010, we reevaluated our workload and stated that, "because we have timely responses from both Asahi and Mori Seiki and our workload has decreased to the point that calculating individual weighted-average dumping margins for these two firms is no longer unduly burdensome nor will prevent the timely completion of this review, we find that we now have the resources to calculate individual margins for both voluntary respondents."[80] As a result, we calculated individual margins for both Asahi and Mori Seiki for the *Preliminary Results* and Post-Preliminary Analysis. Thus, based on the fact that we reviewed Asahi as a voluntary respondent and used its own information for the purpose of calculating a margin, we find this issue is moot. With regard to Asahi's argument that the Department should consider its selling and pricing practices when considering mandatory respondents, the statute's respondent-selection options are not dependent upon such factors when determining mandatory respondents.[81]

Request to Terminate the Administrative Reviews

Comment 20: Asahi requests that the Department revoke the orders and terminate these reviews following the ITC's negative determination of material injury in the sunset reviews of ball bearings that the CIT affirmed in *NSK Corp. v. United States*, 774 F. Supp. 2d 1300 (CIT 2011), stay denied by *NSK Corp. v. United States*, 774 F. Supp. 2d 1300 (CIT 2011) (collectively *NSK*). Asahi argues that section 751(d)(2) of the Act unambiguously states the Department's statutory

[77] *See* Memorandum entitled, "*Ball Bearings and Parts Thereof from Japan – Selection of Respondents*," dated August 18, 2010, at 5.
[78] *Id*., at 6.
[79] *Id*., at 6.
[80] *See* Memorandum entitled, "*Ball Bearings and Parts Thereof from Japan- Treatment of Voluntary Respondents,*" dated November 15, 2010, at 4.
[81] *See* section 777A(c)(2) of the Act.

obligation to revoke an AD order when the ITC makes a negative determination of material injury.

Citing *Decca Hospitality Furnishings, LLC v. United States*, 427 F. Supp. 2d 1249, 1255 (CIT 2006), Asahi argues that a remand determination, as a matter of law, replaces the original determination, and the Department is obligated to take action in accordance with a final determination regardless of whether it was issued in the original investigation or pursuant to a court-ordered remand.

Citing *Diamond Sawblades Mfrs. Coalition v. United States*, 650 F. Supp. 2d 1331 (CIT 2009), *aff'd* 626 F. 3d 1374, 1379 (Fed. Cir. 2009) (*Diamond Sawblades*), Asahi argues that the CAFC has held that the Department must issue an AD order pursuant to its statutory obligation as soon as the ITC notifies the Department of its determination, regardless of whether one of the parties institutes judicial review proceedings to challenge the ITC's determination. Asahi contends that the Department should similarly fulfill its duty under section 751(d)(2) of the Act to revoke an AD order.

Citing section 751(d)(3) of the Act, Asahi argues that the determination to revoke an AD order should apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the Department. Therefore, according to Asahi, the Department must terminate these reviews as there is no authority to continue once the orders are revoked.

Timken states that the CIT decision affirming the ITC's negative sunset determination is under appeal, and a stay of the CIT decision is in place. Timken argues that even if there were no stay, however, the Department has not previously rescinded any review pursuant to a non-conclusive court decision. Timken argues that the CIT cases Asahi cited address instances where the ITC issued a negative determination prior to an appeal and thus, are not on point in these reviews.

Citing *Certain Electrical Conductor Aluminum Redraw Rod From Venezuela Court Decision and Suspension of Liquidation*, 58 FR 52743 (October 12, 1993) (*Electrical Conductor*) (following CIT's affirmation of ITC's negative remand determination, the Department states it will revoke the order if the negative remand is conclusively affirmed by the CAFC), Timken argues that the Department's normal practice has been the exact opposite of Asahi's claim.

Timken argues that Asahi also misinterprets *Diamond Sawblades* where the CAFC held only that the Department was required to publish an AD order following an affirmative injury determination by the ITC in an investigation. According to Timken, the court expressly limited its decision to such a situation clarifying that: 1) its decision addressed only the agency's duties in the context of section 735(b) and (d) of the Act; and 2) the court's decision addressed in the issuance of AD order.

Citing 19 USC 1516a(e), Timken argues that the statute prescribes that liquidation must proceed in accordance with the contested agency decision. Citing *Timken Co., v. United States*, 896 F. 2d 337, 339-40 (Fed. Cir. 1990), Timken argues further that an appealed decision of the CIT is not a final (conclusive) decision as intended by 19 USC 1516a(e).

Department's Position: As a result of *NSK*, the Department revoked the AD orders on ball bearings from Japan and the United Kingdom and discontinued the on-going reviews of these orders.[82] The CIT's decision was appealed to the CAFC, which reversed and vacated the CIT's decision in *NSK* and ordered the CIT to (1) vacate the ITC's negative determinations that the CIT affirmed in *NSK* and (2) reinstate the ITC's affirmative determination in ITC Publication 4131, *Ball Bearings and Parts thereof from Japan and the United Kingdom, Investigation Nos. 731-TA-394A and 399A (Second Review) (Second Remand)* (January 2010).[83] Following the CIT's reinstatement of the ITC's affirmative determinations,[84] the Department reinstated the orders and resumed previously discontinued reviews.[85] NSK and other plaintiffs appealed the CAFC's decision to the Supreme Court of the United States. The Supreme Court denied *certiorari* on June 2, 2014. With these events that took place after Asahi raised this issue in 2011, Asahi's arguments pertaining to the litigation at the CIT are moot.

15-Day Issuance of Liquidation Instructions

Comment 21: NTN and Asahi argue that the Department's current policy of issuing liquidation instructions to CBP 15 days after the publication of the final results does not give the respondents a reasonable amount of time to seek meaningful judicial review. NTN and Asahi also claim that the Department's policy frustrates the purpose of 19 USC 1516a(c)(2) and unreasonably burdens a plaintiff seeking judicial review of a final determination. Citing, *e.g.*, *SKF USA Inc. v. United States*, 611 F. Supp. 2d 1351 (CIT 2009), NTN argues that the CIT found this policy and two previous iterations of this policy to be unlawful on four occasions and stated that it provides a minimally reasonable time during which a party may seek to obtain an injunction against liquidation. NTN claims that the only reason that the Department provided for the existence of this policy is that CBP has only six months to liquidate entries according to 19 USC 1504(d) and it needs a significant portion of that time to liquidate. NTN and Asahi request that the Department consider the unnecessary costs and burdens the 15-day policy imposes on interested parties that seek judicial review and allocate a reasonable portion of the six-month period to allow them sufficient time to complete all of the necessary steps to protect their rights to judicial review. NTN and Asahi argue that a reasonable period to take the necessary steps for judicial review is 60 days because 19 USC 1516a(a) allows an interested party to file a summons within 30 days of the publication of the final results and an additional 30 days to file its complaint.

Department's Position: The Department determines that the issuance of liquidation instructions to CBP 15 days after publication of final results of review is reasonable because it balances the factors which the Department must consider in the effective administration of the AD/CVD laws. This policy was first established in recognition of the time in which parties may allege

[82] *See Revocation Notice*.
[83] *See NSK Corp. v. United States*, 716 F.3d 1352 (Fed. Cir. 2013).
[84] *See NSK Corp. v. United States*, 2013 Ct. Intl. Trade LEXIS 149.
[85] *See Notice of Reinstatement*.

ministerial errors in the final results[86] as well as in consideration of the fact that entries which are not liquidated within six months of the publication of the final results will be liquidated at the rate asserted at the time of entry.[87] We must provide instructions to CBP quickly in order to provide sufficient time for CBP to receive and process these instructions and to liquidate applicable entries accordingly.

Our policy increases the ability of the government to collect the proper amount of duties in every case. In complicated cases where there could be many entries or mixed entries either at one port or several ports, the policy enables CBP to have sufficient opportunity to liquidate at the proper rate or rates. The policy also takes into account the fact that CBP's workload periodically precludes entries from being liquidated immediately upon receipt of the instructions as CBP processes both AD/CVD and normal-consumption entries. Further, in cases involving complex instructions, the remaining time period enables us to respond to CBP inquiries and/or correct any problems so that CBP may act on them before the entries are deemed liquidated. Accordingly, while CBP may not need five and a half months to liquidate entries in every case, we must establish a uniform system to maximize the chances that liquidation will occur at the proper rate in most cases.

In addition, while the statute provides deadlines by which parties must file a summons and complaint with the CIT, the statute indicates no time limit by which we must issue liquidation instructions.[88] Our normal practice is to release the final results of review to interested parties the day after the notice and I&D Memo are signed by the Assistant Secretary and to release disclosure documents within five days after public announcement or publication of the final results. It can be a week, sometimes more, before the final results are published in the *Federal Register*. In other words, while parties have 15 days after the publication of the final results before we will issue liquidation instructions, they have usually had 21 days[89] to read and review the final results before we issued liquidation instructions. In addition, the preliminary results of administrative review are released and published well in advance of the release and publication of the final results and the parties are provided the opportunity to comment on the preliminary results during that period of time.[90] Thus, the parties are aware of the issues which they may be interested in litigating well before the final results are released, much less published in the *Federal Register*.

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[86] The Department's regulations provide that an interested party must file comments concerning ministerial errors within five days after the earlier of the date on which the Department releases disclosure documents to that party, or the Department holds a disclosure meeting with that party. *See* 19 CFR 351.224(c)(2). The regulations also provide that the Department will disclose its calculations normally within five days after the date of any public announcement or, if there is no public announcement, within five days after the date of publication of the final results. *See* 19 CFR 351.224(b).

[87] *See International Trading Company v. United States*, 281 F.3d 1268 (Fed. Cir. 2002); *see also* 19 USC 1504(d).

[88] *See* 19 USC 1516a(a)(2) (stating that interested parties wishing to contest the final results of administrative review have 30 days after the publication of the final results to file a summons and 30 days after that to file a complaint with the CIT).

[89] *See, e.g., AFBs 19* and *AFBs 20* in which the final notices were published six days after they were signed and issued; *see also AFBs 18*, in which the final notice was published seven days after it was signed and issued.

[90] *See* section 751(a)(3)(A) of the Act (stating that the Department must make a final determination in an administrative review 120 days after the publication of the preliminary results and allowing for extensions up to 180 days); *see also* 19 CFR 351.309(c)(1)(ii) (providing interested parties the opportunity to comment on the preliminary results of an administrative review).

We determine that the 15-day period is reasonable and appropriately takes into consideration the concerns of CBP and the interested parties. Recognizing the preparation required to determine whether to bring suit at the CIT, the Department has a practice of not issuing liquidation instructions on day 15 if a party provides the Department of Justice with a draft summons, complaint, and motion for preliminary injunction prior to day 15.

U.S. Customer Code

Comment 22: Timken states that the Department's August 19, 2010, original questionnaire instructed NSK Japan to report only one name or code for each of its customers, even if more than one name or accounting code exists for the customer in the books and records. Timken claims the consolidated customer code field was added to the questionnaire in the 2002-2003 administrative review to allow the Department to test and verify whether the claimed adjustments, such as billing adjustments, early-payment discounts, and rebates are complete and accurate.

Timken argues that NSK Japan's reporting is not consistent with the original questionnaire. Timken asserts that page C-3 of NSK Japan's section C response refers to Exhibit C-1 (NSK Japan's U.S. customer list) without providing further explanation. Timken asserts further that, although Exhibit C-1 includes the customer code, it does not include the consolidated customer code. In support, Timken cites the name of a U.S. customer that was apparently assigned a unique customer code instead of the consolidated customer code. Finally, Timken requests that, for these final results, the Department ensure NSK Japan properly reports data for the customer code and the consolidated customer code in Section C (U.S. sales database).

NSK Japan asserts that it sought timely clarifications with respect to certain reporting obligations in its clarification request.[91] In support, NSK Japan asserts further that it specifically mentioned its reporting obligations for consolidated customer codes in Section B (Field 4.1) and C (Field 6.1) files. NSK Japan reiterates that, at the commencement of this review, it informed the Department of the limited potential use for this information and that "reporting of the consolidated customer code for unaffiliated customers cannot be done without manual intervention."[92] NSK Japan claims that, in its September 13, 2010, response to the clarification request, the Department specifically referenced NSK Japan's argument regarding the "absence of any compelling need for the consolidated customer code data for unaffiliated customers," and confirmed that NSK Japan's obligation to report consolidated customer code information would be limited to affiliated customers in Section B (Home-Market Sales).

NSK Japan argues, Timken offers no reason why the reporting of consolidated customer codes for unaffiliated customers in the U.S. sales database is now important to this proceeding when NSK Japan properly requested it be excused from reporting it. NSK Japan maintains that it followed the procedures provided in the original questionnaire and regulations to seek relief from the burden of reporting consolidated customer codes in Section C. NSK Japan maintains further

[91] NSK Japan cites their letter to the Secretary of Commerce, "In The Matter OF Ball Bearings And Parts Thereof From Japan; Requests for Clarification Pursuant to 19 CFR 351.301" (September 9, 2010) (clarification request).
[92] *Id.*, at Pages 9-10.

that the Department properly considered the value and burden of reporting and subsequently concluded that NSK Japan is not required to report the information Timken now requests. NSK Japan argues that the Department should not, at this stage of the administrative review, grant Timken the opportunity to impose burdens for which it properly requested to be excused from in its clarification request. Finally, NSK Japan requests the Department reject Timken's request for reporting the consolidated customer code in the Section C database.

Department's Position: We agree with NSK. Section 782(c)(1) of the Act states as follows:

> If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

On August 19, 2010, we issued the original questionnaire to NSK Japan. In the original questionnaire, we requested NSK Japan to report only one name or code for each of its customers, even if more than one name or accounting code exists for that customer in the books and records. In addition, we requested NSK Japan to ensure each customer is assigned only one discrete code for the consolidated customer code. Additionally, the cover letter of the original questionnaire states, "if you are having difficulty responding to the questionnaire or if you have any other questions, please contact the official in charge."

On September 9, 2010, in response to our original questionnaire, NSK Japan submitted a clarification request.[93] In the clarification request, NSK Japan explained that the size of its U.S. and home-market database would place an undue burden on its reporting obligations and requested permission to submit only data concerning the consolidated customer code for its affiliated customers. On September 13, 2010, we issued a clarification response to NSK Japan.[94] In the clarification response, we stated that, due to the size of NSK Japan's home-market database file and the absence of any compelling need to report consolidated customer code data for unaffiliated customers, NSK Japan could report the consolidated customer code for affiliated home market customers only. Therefore, consistent with our clarification response, NSK Japan reported only data for affiliated customers in the consolidated customer code field of its home-market sales database.

Denial of Offsets for Non-Dumped Sales

Comment 23: Asahi, NTN, Nachi, NSK, and JTEKT argue that the Department should recalculate each of their weighted-average dumping margins without the use of zeroing due to their contention that the use of zeroing in administrative reviews is unreasonable after the

[93] *Id.*
[94] *Id.*

Department's elimination of the practice in investigations. Timken opposes these respondents' arguments.

Department's Position: Before we discontinued these reviews in 2011, the Department published *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings,* 75 FR 81533 (December 28, 2010), in which the Department proposed changing its practice in response to adverse WTO findings regarding the denial of offsets in administrative and sunset reviews. Since that time, the Department published its *Final Modification for Reviews* in which it stated that

> After considering all of the comments submitted, the Department is adopting the proposed changes to its methodology for calculating weighted-average margins of dumping and antidumping duty assessment rates to provide offsets for non-dumped comparisons when using monthly {average-to-average} comparisons in reviews, in a manner that parallels the WTO-consistent methodology the Department currently applies in original antidumping duty investigations.[95]

The *Final Modification for Reviews* further stated that this "methodology will also be applicable to any reviews currently discontinued by the Department if such reviews are continued after April 16, 2012 by reason of a final and conclusive judgment of a U.S. Court,"[96] such as the situation for these administrative reviews which we resumed effective November 29, 2013.[97] Accordingly, for the Post-Preliminary Analysis, the Department used the A-A method, which grants offsets for non-dumped sales, to calculate each respondent's weighted-average dumping margin.[98] The Department has not changed the post-preliminary calculations for the final results of these reviews. Therefore, for these final results, the respondents' arguments concerning denying offsets for non-dumped sales are moot.

Clerical Errors

Comment 24: Timken argues, with regard to NSK UK, that the Department incorrectly used the variable cost of manufacture (VCOMCOP) rather than the total cost of manufacture (TCOMCOP) in its comparison market and margin calculation programs. Accordingly, Timken contends, the Department has not included the necessary fixed overhead costs in its dumping calculations for NSK UK. NSK UK did not comment on this issue.

Department's Position: We agree with Timken. For these final results, we modified our comparison-market and margin-calculation programs to accurately calculate the total cost of manufacture for NSK UK.[99]

Comment 25: NSK Japan states that the Department has, in previous reviews, concluded that certain Japanese worker expenses should be included in the U.S. indirect selling expenses

[95] *See Final Modification for Reviews,* 77 FR at 8102.
[96] *Id.*, 77 FR at 8113.
[97] *See Notice of Reinstatement.*
[98] *See* Post-Preliminary Analysis.
[99] *See* the NSK UK final analysis memorandum for further details.

because, in the Department's view, they are related to U.S. sales activity. NSK Japan states further that, in the instant review, the Department inadvertently included NSK Japan's overall foreign indirect selling expenses not attributable to Japanese worker expenses. NSK Japan asserts that this modification was inadvertent given the lack of explanation and provides corrective language.

Department's Position: Upon review of the margin calculation program, we agree with NSK Japan that we inadvertently included NSK Japan's overall foreign indirect selling expenses not attributable to Japanese worker expenses. Accordingly, we made the suggested correction, adopting the corrective language suggested by NSK Japan.[100]

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of the reviews and the final weighted-average dumping margins for all of the reviewed firms in the *Federal Register*.

Agree X Disagree _____

Lynn Fischer Fox
Deputy Assistant Secretary
for Policy and Negotiations

6/13/14
Date

[100] *See* final analysis memorandum for NSK Japan for further details.