



A-580-867


POR: 08/01/2013-07/31/2014

Public Document

AD/CVD OPS OVI: BCD, EAA

March 8, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Administrative Review of the Antidumping Duty Order on Large
Power Transformers from the Republic of Korea; 2013-2014

I. Summary

We have analyzed the case and rebuttal briefs submitted by interested parties. As a result of our analysis, we have made changes to the margin calculations of both respondent companies, as discussed below. We recommend that you approve the positions described in the "Discussion of Interested Party Comments" section of this Issues and Decision Memorandum. Below is the complete list of the issues in this administrative review for which we received comments from parties:

II. List of Issues

A. General Issues

- Comment 1: The Use of Constructed Value to Calculate Normal Value
Comment 2: Whether the Department Should Apply the Transaction-to-Transaction Method, and Whether the Department Should Alter Its Application of Differential Pricing in this Administrative Review

B. Hyosung -Specific Issues

- Comment 3: The Department's Capping of Certain Expense Revenues
Comment 4: The Department's Adjustment to Home Market Warranty Expenses and Indirect Selling Expenses
Comment 5: The Department's Treatment of Ocean Freight Revenue
Comment 6: The Department's Treatment of U.S. Commission Expenses
Comment 7: Clerical Error Related to U.S. Direct Selling Expenses

C. Hyundai Heavy Industries Co., Ltd.-Specific Issues

- Comment 8: Hyundai's Reporting of Constructed Value
Comment 9: The Department's Treatment of U.S. Commission Offset
Comment 10: Hyundai's Failure to Report Reimbursed Expenses
Comment 11: Hyundai Reporting of U.S. and Home Market Dates of Sale
Comment 12: Hyundai's Reported Installation and Supervision Expenses
Comment 13: Hyundai's Calculations of Indirect Selling Expenses for the Home and U.S. Markets
Comment 14: Hyundai's Failure to Provide Audited 2013 Financial Statements for Hyundai Corporation (Korea)
Comment 15: Application of Adverse Facts Available to Hyundai
Comment 16: Hyundai's Reporting of U.S. Credit Expenses
Comment 17: Hyundai's Reporting of Bank Charges Incurred on its U.S. Sales
Comment 18: Hyundai's Reporting of U.S. Brokerage Expenses
Comment 19: Hyundai's Reporting of U.S. Inland Freight Expenses for U.S. Sales that Included Spare Parts
Comment 20: Hyundai's Reporting of its U.S. Supervision Costs
Comment 21: Verification of Amounts Reported by Hyundai for Warranty Expenses and Domestic Indirect Selling Expenses Incurred in the United States
Comment 22: Hyundai's Failure to Report Inventory Carrying Costs Incurred in the United States
Comment 23: Issues with Specific U.S. Sales
Comment 24: Hyundai's Reporting of Insurance and Packing Expenses for Home-Market Sales
Comment 25: Hyundai's Reporting of Home-Market Inland Trucking Expenses
Comment 26: Hyundai's Reporting Home Market Insurance Expenses
Comment 27: Hyundai's Reporting of Other Direct Selling Expenses
Comment 28: Hyundai's Reporting of Actual Packing Expenses

Comment 29: Hyundai's Reporting of Warranty Guarantee Expenses

Comment 30: Correction to Hyundai's Liquidation Instructions

III. Background

On September 4, 2015, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty (AD) order on large power transformers (LPTs) from the Republic of Korea (Korea) for the period August 1, 2013, through July 31, 2014.¹ The review covers five producers/exporters of the subject merchandise: Hyosung Corporation (Hyosung), Hyundai Heavy Industries Co., Ltd. (HHI/Hyundai), ILJIN, ILJIN Electric Co., Ltd. (ILJIN Electric), and LSIS Co., Ltd. (LSIS). The two manufacturers/exporters that were selected as mandatory respondents were Hyosung and Hyundai.² ILJIN, ILJIN Electric, and LSIS were not selected for individual examination. The petitioner in this review is ABB Inc. (Petitioner).

On October 16, 2015, Hyosung, Hyundai, and Petitioner timely submitted case briefs commenting on our *Preliminary Results*.³ Rebuttal briefs were also timely filed by Hyosung, Hyundai, and Petitioner, on October 26, 2015.⁴

Department officials met with counsel to Petitioner on December 10, 2015. The Department also met jointly with counsel to Hyundai and Hyosung on February 11, 2016.⁵

IV. Scope of the Order

The scope of this order covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete.

Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The "active part" of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: the steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT.

The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.

¹ See *Large Power Transformers From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 53496 (September 4, 2015) (*Preliminary Results*).

² In instances where we or the parties refer to both HHI and its U.S. affiliate, Hyundai Corporation, U.S.A, we have referred to these companies collectively, as "Hyundai."

³ See Petitioner's Hyosung Case Brief, Petitioner's Hyundai Case Brief, Hyosung's Case Brief, and Hyundai's Case Brief, each dated October 16, 2015.

⁴ See Petitioner's Rebuttal Brief, Hyosung's Rebuttal Brief, and Hyundai's Rebuttal Brief, each dated October 26, 2015.

⁵ See Memoranda to the File, dated December 10, 2015, and February 11, 2016.

The LPTs subject to this order are currently classifiable under subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

V. Discussion of Interested Party Comments

A. General Issues

Comment 1: The Use of Constructed Value to Calculate Normal Value

Hyosung's Comments

- Hyosung argues that while it recognizes that the statute has a stated preference for using price-to-price comparisons, given the “custom-made and unique characteristics” of each individual LPT unit, in this review the Department should use constructed value (CV) to calculate normal value (NV) in the final results.⁶
- Citing to several past determinations, Hyosung contends that the Department may determine that home market sales are inappropriate as a basis for determining NV if the particular market situation would not permit a proper comparison.⁷ In such circumstances, Hyosung argues, the Department may calculate NV based on CV.⁸
- The statute, Hyosung argues, provides the Department sufficient discretion in determining whether a particular market situation exists or if circumstances otherwise justify departure from the Department’s standard calculation methodology and that the only exception to reliance on CV for large, capital-intensive equipment is the present case.⁹
- Citing to *LPTs from France* and *LNPPs from Germany*, Hyosung argues that there is ample support for the Department’s use of CV in this administrative review, despite the Department’s departure from its normal practice in the investigation.¹⁰
- Hyosung contends that the record facts of this case support the use of CV to calculate NV. The Department’s determination in the original investigation that price-to-price

⁶ See Hyosung’s Case Brief at 11-15.

⁷ See *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Reviews and Final Determinations of Scope Inquiries*, 65 FR 62695, 62697 (October 19, 2000); *Large Power Transformers From France: Preliminary Results of Antidumping Administrative Review*, 61 FR 15461, 15462 (April 8, 1996); *Large Power Transformers from France: Final Results of Antidumping Administrative Review*, 60 FR 62808 (December 7, 1995); *Mechanical Transfer Presses from Japan*, 58 FR 68117 (December 23, 1993).

⁸ See Hyosung’s Case Brief at 12.

⁹ *Id.*

¹⁰ *Id.* at 13.

comparison was appropriate, Hyosung argues, was based on the Department's view that the respondents had not raised the issue at the beginning of the proceeding.¹¹

- Hyosung argues that since the original investigation, the Department has had additional opportunity to gather information regarding the customized nature of the subject merchandise as well as the comparability of subject merchandise through the first administrative review and the current second administrative review. Furthermore, Hyosung contends that, contrary to the original investigation, Petitioner in this review appears to agree that the customized nature of LPTs renders product comparisons meaningless.¹²
- Finally, Hyosung contends that by relying only on constructed value, the Department's calculations would necessarily account for the differences between LPTs that are attributable to the fact that LPTs are, as Petitioner says, "highly specialized, large capital goods that are custom made to unique customer specifications."¹³

Hyundai's Comments

- Citing *LPTs from France*, *LNPPs from Germany*, *LNPPs from Japan*, *Engineered Process Gas Turbo-Compressor Systems from Japan*, and *Mechanical Transfer Presses from Japan*, Hyundai argues that, in the final results, the Department should base NV on CV as it has in other proceedings involving highly specialized, large capital goods that are custom-made to unique customer specification since the nature of LPTs does not permit proper price-to-price comparisons. Citing the SAA,¹⁴ Hyundai claims that, in such situations, the Department relies on CV as NV, rather than model matching, to resolve these problems.¹⁵
- As it recognized in the original investigation that matching LPTs in the United States and Korean markets is impossible because they differ substantially,¹⁶ in this review, Petitioner has also reached the same conclusion that, due to LPTs' nature, price-to-price comparisons are not an appropriate basis for determining NV as they cause significant problems and thus do not result in an accurate product matching or margin calculation. Specifically, Hyundai asserts, LPTs are being matched with LPTs that are not truly "similar" products, but nonetheless pass the 20-percent differences in merchandise (DIFMER) test.
- Contrary to Petitioner's allegation that Hyundai's "illogical" and "unreasonable" costs led to numerous problems, the Department's cost verification report demonstrates that Hyundai accurately reports its costs. Thus, the only conclusion that can be reached is that

¹¹ *Id.* at 13-14.

¹² *Id.* at 14-15.

¹³ *Id.* at 15.

¹⁴ Statement of Administrative Action, H.R. Doc. 103-No. 316, Vol. 1, 103d Cong., 2d Session. (1994) (SAA)

¹⁵ Uruguay Round Agreement Act, SAA, reprinted in 1994 USCCAN, at 4040, 4175.

¹⁶ See *Investigation Initiation Notice* at 49439, 49441.

the problem lies in the model matching through the control number hierarchy to determine NV.

- The Department's determination in the original investigation that model-match criteria were validated is, in part, based on the alleged absence of comments by respondents regarding "suggested hierarchy of model match criteria." Hyundai did not submit comments on this matter because such a hierarchy cannot account for the numerous variations of LPTs. It is not possible to design or revise the functional control number hierarchy to account for the numerous variations of LPTs given the custom-ordered nature of LPTs.
- The solution to the problems is not Petitioner's proposal for a transaction-to-transaction (T-T) comparison that uses shipment date as the date of sale, but the use of CV as NV.
- The number of the home and U.S. transactions is small, and certain U.S. sales cannot be matched to any home market sales. This has led to a situation where the ratio of an individual home market sale to the total number of U.S. sales is near or above the five percent level at which the SAA confirms that a "particular market situation" might exist, thereby warranting the use of CV as NV.¹⁷
- Citing the SAA and *Large Power Transformers from France*, Hyundai claims that the Department has compelling evidence to find a "particular market situation" to use CV as NV for LPTs.¹⁸
- Hyundai timely made the request prior to the preliminary results, and timely raised it again in its case brief.

Petitioner's Comments

- The Department should reject the arguments of both respondents for using CV to calculate NV and should continue to employ a price-to-price methodology for the final results in this review. The Department should only base NV on CV when there are no reasonable contemporaneous matches between U.S. and home market sales and thus the Department is unable to determine NV using the home market price.
- Respondents challenged price-to-price matching in the original investigation based on the same arguments. There, the Department found such matching was required by statute and appropriate for LPTs.
- Although both respondents argue that a particular market situation exists because the model matching criteria are unreasonable, neither respondent challenged the model matching criteria in this review, the previous review, or the investigation.

¹⁷ See Hyundai's Case Brief at 14.

¹⁸ *Id.* at 15.

- The problem in this case does not lie with the model match criteria but instead with the misreporting of dates of sale that create temporal distortions in the DIFMER adjustments and with other reporting errors.
- Citing 19 USC 1677b(a)(1)(A), 19 USC 1677b(a)(1)(B), 19 USC 1677b(a)(4), the SAA and *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom*, Petitioner claims that the Department's preferred use of price-to-price comparisons is mandated by the statute.¹⁹ Petitioner further claims that the Department's reliance on this methodology is consistent with its decision in the original investigation and should be retained for the final results.
- The statute and the Department's practice and precedent require the Department to rely on a price-to-price comparison for the calculation of dumping margins where such a comparison is possible. The Department has consistently been able to find price-to-price matches that meet the requirements of the statute for most U.S. sales in this and the previous segments of this case. Moreover, no circumstances in this case have been identified by the respondents that would warrant the use of CV to determine NV.
- Citing *Ball Bearings and Parts Thereof from France*, Petitioner states that the Department has explained "the implication of the statute on this point to be that reasonable price-to-price comparisons are a more accurate measure of dumping than are price-to-CV comparisons."
- The conditions necessary for the Department to move to CV pursuant to 19 CFR 351.405(a) are not present in this case.
- Citing 19 CFR 351.404(d), Petitioner maintains that respondents' allegations that a particular market situation exists were not raised within the time limit required by the Department's regulations and are not supported by the record evidence.
- Petitioner argues that all of the previous cases in which the Department has used a CV match are distinguishable on their facts from this case in that the scope of this case is narrower and thus the fact pattern is not the same. Petitioner contends that respondents have not identified the kinds of fact patterns that led the Department to use CV as an NV in earlier cases which they cite.
- Petitioner claims that the prior proceedings involving other large, custom-built articles from the distant past should not result in the Department's automatically resorting to utilizing CV to determine NV in this proceeding because the Department resorted to CV in past cases only after finding that proper price-to-price comparisons was not

¹⁹ See *Large Power Transformers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 77 FR 40857 (July 11, 2012) (*LPTs Final Determination*) and accompanying Issues and Decision Memorandum at Comment 10 (citing Uruguay Round Agreement Act, Statement of Administrative Action, H.R. Doc. No. 103-316 at 820 (1994), reprinted in 1994 USCCAN 4040, 4161; see also *Koyo Seiko Co. v. United States*, 31 C.I.T. 1512, 1518 (Court Of Internationals Trade (CIT) 2007).

permissible. Petitioner further claims that the Department is required to base its decision to choose NV on the facts of this case according to current law and regulations.

- The model match methodology or criteria and the calculation of dumping margin based on price-to-price matching are not inherently flawed by the custom-built nature of LPTs. It is the Hyundai's misreporting of date of sale and other data by the respondents that caused distortions in this case. The Department can correct any distortions by using its discretion to correct the date of sale used for the model match, not by abandoning the statutorily required preference for price-to-price margin calculations. As for Hyosung, Petitioner asserts that Hyosung cannot point to any specific distortion in the model matching for its sales that would justify departing from the statutorily required, price-to-price comparison methodology.
- The Department's model-matching characteristics are designed to account for each of the physical elements by comparing the total variable costs (VCOMs), and respondents have not demonstrated otherwise with record evidence. All of the material differences in physical characteristics that respondents pointed out are accounted for in the matching criteria, allowing for use of a difference in merchandise (DIFMER) adjustment based on differences in VCOMs.
- Contrary to both respondents' mischaracterization of Petitioner's views, Petitioner has not taken the position that the Department's price-to-price matching contains "inherent, systemic flaws" and is not capable of reaching an accurate result in this review. Petitioner has maintained that properly reported control numbers and DIFMERs do yield the most accurate dumping margins if the Department matches LPTs that are contemporaneously produced and sold based on the correct reporting of dates of sales (*i.e.*, the date of shipment as the date of last purchase order).

Department's Position

After examining the parties' arguments, we find it appropriate to base our determination on price-to-price comparisons, when possible, rather than proceeding directly to CV for purposes of NV. Section 773(a) of the Tariff Act of 1930, as amended (the Act), directs the Department to base NV upon price comparisons rather than using CV: "{t}he normal value of the subject merchandise shall be the price, unless an exception to that method is established, thereby creating a preference for price-to-price comparisons for purposes of determining the margin of dumping."²⁰ The relevant price is "the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale)" in the home market. However, if the Department cannot determine NV using this price, then the Act provides that "the normal value of the subject merchandise may be the constructed value of that merchandise, as determined under subsection (e)."²¹ Thus, the statute is clear that the preferred method for identifying and measuring

²⁰ See section 773(a)(1)(A) of the Act.

²¹ See section 773(a)(4) of the Act. Similarly, the SAA expresses a preference for price rather than CV, stating that "{u}nder new section 773(a), as under existing law, the preferred method for identifying and measuring dumping is to compare home market sales of the foreign like product to export sales to the United States. Consistent with the Agreement, if home market sales of a foreign like product do not exist or are not useable as a basis for determining

dumping is to compare home market sales of the foreign like product to export sales to the United States. Absent any showing that the use of such prices was inappropriate, the Department followed its statutory obligation to consider this preference in its determination. Here, the record evidence confirms the Department's decision in the *Preliminary Results* to use price-to-price comparisons as the basis for NV.

With regard to proper price-to-price comparisons, the model matching criteria resulted in a majority of price-to-price comparisons, rather than having to resort to CV for purposes of NV. In other words, an analysis of how products are chosen for comparison demonstrated that the majority of CONNUMs matched products that were similar in terms of physical characteristics, particularly with respect to those physical characteristics at the top of the model match hierarchy. Where the comparisons were unreasonable, *i.e.*, where we were unable to find a proper match based upon the established criteria, the Department relied on CV as provided by the statute, and to ensure the accuracy of the overall margin. Further, Hyundai and Hyosung participated in the process of developing the model match criteria, but did not voice the objections Hyundai now raises in its Case Brief. In the *Investigation Initiation Notice*,²² the Department specifically asked for comments on the product comparison criteria and the hierarchy under which the physical characteristics should be considered in product matching.²³ In response, Petitioner, but notably not the respondents, provided extensive comments and proposed a hierarchy of product characteristics.²⁴ Hyundai did not propose suggested product characteristics or any possible hierarchy but rather submitted comments on reasons why it believed the Department should proceed directly to using CV in this case.²⁵ Therefore, the Department notes it gave Hyundai and Hyosung an opportunity to submit a suggested hierarchy of model match criteria in their initial comments to the Department, and both companies declined to do so.²⁶ The Department carefully considered both Petitioner's initial comments and Hyundai's and Hyosung's rebuttal comments with regard to the product characteristics and the model matching hierarchy to be used in this investigation.²⁷ Thus, Hyundai's argument that it is not possible to design or revise the functional control number hierarchy to account for the numerous variations of LPTs given the custom-ordered nature of LPTs is not persuasive. Rather, the models are being selected as the result of a thorough and deliberative analysis (in which all parties had the opportunity to participate) for selecting the most representative, meaningful model match criteria.

NV, Commerce may identify and measure dumping by comparing the export price or CEP to NV based on either: (1) sales of the foreign like product to a country other than the United States; or (2) constructed value."²¹

²² See *Large Power Transformers from the Republic of Korea: Initiation of Antidumping Duty Investigation*, 76 FR 49439 (August 10, 2011) (*Investigation Initiation Notice*).

²³ See *Investigation Initiation Notice*, 76 FR at 49439-43 ("We are requesting comments from interested parties regarding the appropriate physical characteristics of large power transformers to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.").

²⁴ See *LPTs Final Determination* and accompanying Issues and Decision Memorandum at Comment 10, pages 48-49.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

With respect to arguments that the Department should find that a “particular market situation” in this case warrants the use of CV,²⁸ the Department first notes that Hyosung did not make such a formal allegation with all supporting factual information within the time limits prescribed in the Department’s regulations. Section 351.404(c)(2)(d)(1) of the Department’s regulations states that with respect to “[a]llegations concerning market viability and the basis for determining a price-based normal value,” such allegations “must be filed, with all supporting factual information, in accordance with section 351.301(d)(1),” *i.e.*, within 40 days of the initial questionnaire.²⁹ Neither Hyosung nor Hyundai made timely allegations in this review.

Next, respondents cite to several past cases where the Department used CV and argue that the Department should follow these cases. These cases are all distinguishable from the facts of this case. For example, in *LNPPs from Germany* and *LNPPs from Japan*, the sales of large newspaper printing presses occurred in markedly smaller quantities, and the degree of customization in the individual large newspaper printing press products far exceeds any customization of LPTs in this case. More specifically, LNPPs are “one-off” custom made products designed to fit a particular customer’s needs and specific location whereas LPTs are custom made, but generally are somewhere between an “off-the-shelf” commodity product, like steel, and a “one-off” product like LNPPs or MTPs. Further, previous case precedent is not as clear cut as Hyosung has claimed. For example, in the *MTPs from Japan* investigation, the Department actually “calculated foreign market value based on a home market sale or constructed value, as appropriate,” and resorted to CV only when there “were no sales of merchandise which were sufficiently similar to that sold to the United States to serve as a basis for comparison.”³⁰

When the Department originally considered the issue of whether price-to-price comparisons for LPTs would be administrable and would yield proper comparisons of products, the Department examined the nature of the matching criteria and whether such criteria would provide a basis for identifying LPTs sold in Korea that were comparable products to LPTs exported to, and sold in, the United States.³¹ In the original investigation and first review, the Department’s determinations demonstrated that such price-to-price comparisons were administrable, and yielded comparisons of comparable products.³² No party has identified any changes in the industry or products sold in the home and U.S. markets for these products, and therefore the Department has continued to base its determination on price-to-price comparisons, where such comparisons are possible, and to address those instances in which price-to-price comparisons create possible distortion in the margin of dumping by relying on price-to-CV comparisons when the comparisons were unreasonable.

²⁸ The Act states that a particular market situation may exist when “the particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price.” See section 773(a)(1)(C)(iii) of the Act.

²⁹ See 19 CFR 351.301(d)(1) (such allegations are “due, with all supporting factual information, within 40 days after the date on which the initial questionnaire was transmitted, unless the Secretary alters this time limit.”).

³⁰ See *Preliminary Determination of Sales at Less Than Fair Value; Mechanical Transfer Presses From Japan*, 54 FR 34208 (August 18, 1989) (*MTPs from Japan*).

³¹ See *LPTs Final Determination*, and accompanying Issues and Decision Memorandum at Comment 10.

³² See, *e.g.*, *id.*

We stress that the unique factors in this case are different from both commodity products such as steel and “one-off” custom made products such as mechanical transfer presses and large newspaper printing presses. LPTs are neither a “one-off” special product nor an “off-the-shelf” commodity. Rather, the Department’s experience with this case, as developed by the record and through parties’ comments, demonstrates that price-to-price comparisons can be properly made in light of the current industry practices and model match criteria used in this case. Further, we note there are a number of sales by both respondents in both the home and U.S. markets when compared to the other cases respondents cite to where the Department based NV on CV (*i.e.*, providing an opportunity for more matches between home market and U.S. sales. As we stated above, while there are no identical matches when relying upon price-to-price comparison in this case, where the comparisons were unreasonable, *i.e.*, where we were unable to find a proper match based upon the established criteria, we relied on CV.

We also note that Hyundai’s claim regarding the DIFMER adjustments is misplaced. Hyundai has not provide any precedent to support its assertion that the Department previously found it could not rely on DIFMER adjustments in prior proceedings involving LPTs. Unlike the previous LPT investigation, in which the scope was considerably broader in terms of MVA (megavolt-amperes), the scope of this case is narrower. In the previous case, the scope covered all types of transformers rated 10,000 KVA (kilovolt-amperes) (*i.e.*, 10 MVA) or above, whereas the scope of this investigation covers only those LPTs that are above 60 MVA. Therefore, LPTs sold in the United States have the opportunity to match to similar home market sales when DIFMER adjustments are properly made.

As a further example of the Department’s evolving practice, it is also important to note that even in an administrative review of *Large Power Transformers from France*, the Department disagreed that CV should be preferred to price lists despite significant physical differences; the Department instead stated that it needed “to establish a reasonable, uniform methodology by which differences in physical characteristics of the transformers being compared can quantified.”³³ Similarly, in this case, the Department has captured these physical characteristics by using its model match criteria and the DIFMER to quantify differences in physical characteristics.

Therefore, based on record evidence and consideration of interested parties’ comments, we have found it appropriate to continue to rely upon price-to-price analysis in our final results, except for those instances in which the DIFMER analysis indicated the products being compared were not comparable, in which case we relied upon CV. While there are no identical matches when relying upon price-to-price comparison, the Department’s matches achieve the level of similarity required by the statute. The statute establishes a preference for a price-to-price comparison (which the courts have recognized) unless there is a problem with a price-to-price comparison such as a particular market situation. No party has sufficiently identified a systematic or categorical flaw in the matches that would require disregarding price-to-price comparisons altogether for purposes of NV, and instead proceed directly to CV. Thus, we have used a price-to-price analysis for purposes of these final results. Finally, we note that the DIFMER and

³³ See *Large Power Transformers From Japan; Final Results of Administrative Review of Antidumping Finding*, 48 FR 26498 (June 8, 1983).

date of sale arguments that Petitioner raises are addressed separately in Comment 11 of this memorandum.³⁴

Comment 2: Whether the Department Should Apply the Transaction-to-Transaction Method, and Whether the Department Should Alter Its Application of Differential Pricing in this Administrative Review

Petitioner's Comments

- Petitioner contends that, pursuant to 19 CFR 351.414(c), the Department should use the T-T comparison methodology, without offsetting positive margins with non-dumped sales, given that the production of LPTs is that of “custom, made-to-order goods and that the sales of LPTs are few in number and characterized by ‘unusual situations.’”³⁵ Petitioner contends that, due to the customized nature of LPTs, price averaging (*i.e.*, the average-to-average or standard methodology) is unsuitable.³⁶ Specifically, Petitioner states that the sale of LPTs with identical control numbers being sold to different customers would be extremely rare and, if it did occur, would most likely have occurred during different time periods, thereby precluding price averaging.³⁷
- Petitioner also contends that the Department’s differential pricing analysis mistakenly concludes that there was little-to-no pattern of price differentiation by Hyosung during the POR and that, therefore, the Department should use the T-T comparison methodology, without offsetting positive margins with non-dumped sales.³⁸ According to Petitioner, the negative differential pricing finding based on the Cohen’s *d* test is a reflection of the “inherent incomparability of the test and small populations of custom-made LPTs to be averaged within the test and comparison groups.”³⁹ Petitioner argues that a statistically meaningful analysis based on Hyosung’s sales was effectively impossible due to insufficient base and comparison pools of the same control number.⁴⁰
- Citing to the Department’s decision in the first administrative review to decline to modify its standard differential pricing analysis through “improving the ‘comparability’ of the custom-made LPTs,” Petitioner argues that “while the Department may employ its administrative discretion to decline to take measures to improve the comparability of the custom-made LPTs, the Department should not overlook the plain language of its own regulation with regard to custom-made products” and, thus, should apply the T-T comparison methodology.⁴¹

³⁴ See Hyundai’s Final Analysis Memorandum.

³⁵ See Petitioner’s Case Brief at 4-8.

³⁶ *Id.* at 6.

³⁷ *Id.* at 7-8.

³⁸ *Id.* at 8-12.

³⁹ *Id.* at 8-9.

⁴⁰ *Id.* at 10-12 and Attachments 1 and 2.

⁴¹ *Id.* at 13-14.

- Additionally, Petitioner contends that there is a clear pattern of price differences that went unexposed by the Cohen's *d* test, thus further undermining the results of the Department's differential pricing analysis. Specifically, Petitioner argues that an examination of absolute net U.S. prices and operating profit amounts/percentages demonstrates differential pricing.⁴²
- Petitioner also argues that Hyosung's U.S. price and cost data are misreported and/or altered in order to mask dumping and evade antidumping duties.⁴³ Specifically, Petitioner alleges that the record reflects: unexplained variances in entered values (suggesting that final reported prices were manipulated to mask dumping); significant cost differences for virtually identical products (suggesting possible manipulation of the cost test, difference in merchandise analyses and adjustments, and constructed value calculations); and the inclusion of revenue for spare parts and installation, as well as inflated freight expenses in the reported U.S. gross unit prices (which affected the Department's pricing analyses and further masked the true level of dumping).⁴⁴ According to Petitioner, this evidence suggests price differentiation occurred.⁴⁵
- Petitioner claims Hyundai's flawed reporting of its U.S. sales database (*i.e.*, overstated GRSUPRU, distorted DIFMERs, incorrectly and inconsistently reported revenues and expenses, and unreliable entry values) leads to a conclusion that Hyundai's pricing and cost data are masking its true degree of dumping and thereby prevent an accurate measure of the appropriate dumping duties, which supports that price differentiation likely occurred.
- For the above-mentioned reasons, Petitioner argues that the Department should apply the alternative, T-T comparison methodology, without offsetting positive margins with non-dumped sales, for the final results.⁴⁶

Hyosung's Comments

- Hyosung's contends that the Department should not have conducted a differential pricing analysis in the first place and should eliminate this test from its analysis in its final results as the Department lacks the statutory authority to consider an alternative comparison method in administrative reviews.⁴⁷
- Hyosung argues that the statutory authority that the Department relies upon to conduct a differential pricing analysis, which is set forth at section 777A(d)(1)(B) of the Act, is limited to original investigations.⁴⁸

⁴² *Id.* at 14-20.

⁴³ *Id.* at 20.

⁴⁴ *Id.* at 21-30.

⁴⁵ *Id.* at 20 – 21.

⁴⁶ *Id.* at 30.

⁴⁷ See Hyosung's Rebuttal Brief at 3-5.

⁴⁸ *Id.* at 3-4.

- Hyosung states that the statute explicitly identifies the Department’s authority to use an alternative comparison method as an exception to a standard comparison method in original LTFV investigations.⁴⁹
- The structure of section 777A(d) of the Act unequivocally shows Congress’s intent that reliance on an alternative comparison method would function as an exception to the standard comparison method in original investigations and would not be applied in administrative reviews, and the Department does not have the authority to override this intent.⁵⁰
- Hyosung argues in the alternative that Petitioner’s proposal, which Hyosung characterizes as “nothing more than a wholesale (and unsupported) revision of the Department’s targeted dumping and differential pricing analysis,” should be rejected and that the Department should continue to use the average-to-average comparison methodology without zeroing.⁵¹
- Hyosung contends that Petitioner cites to no case precedent supporting the application of a T-T comparison methodology, nor does it propose a methodology to implement the proposed T-T comparison method.⁵²
- With regard to Petitioner’s argument that the custom-made nature of LPTs counsels in favor of the T-T comparison method, Hyosung contends that this consideration instead undermines Petitioner’s proposal because it would require a “meaningless” comparison of one unique product to another unique product.⁵³
- Petitioner argues that 19 CFR 351.414(c) does not require the Department to use the T-T comparison methodology.⁵⁴ Specifically, Hyosung contends that although sales of LPTs appear to satisfy some elements of the regulation, Hyosung did not have “very few sales” of LPTs, nor are its LPTs “identical or very similar.”⁵⁵
- Hyosung argues that the purpose of 19 CFR 351.414(c) is to identify situations where the Department can readily identify individual matches between U.S. and home market sales and that for the Department to apply this methodology, the Department would be required to map each of Hyosung’s U.S. sales to a corresponding transaction among the reported home market sales, which would be inappropriate and distortive given the custom-made nature of the LPTs.⁵⁶

⁴⁹ See Hyosung’s Rebuttal Brief at 3-4.

⁵⁰ *Id.* at 4 (citing *FAG Italia S.p.A. v. United States*, 291 F. 3d 806,816 (Fed. Cir. 2002) (quoting *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986))).

⁵¹ *Id.* at 2, 4-5.

⁵² *Id.* at 5.

⁵³ *Id.* at 5-6.

⁵⁴ *Id.* at 6.

⁵⁵ *Id.* at 6-7.

⁵⁶ *Id.* at 7.

- With regard to Petitioner's request that the Department apply zeroing if it uses a T-T methodology, Hyosung contends that there is no indication in the statute or the Department's practice that the use of zeroing would be legal or appropriate in this case.⁵⁷
- Hyosung argues that to the extent Petitioner asks the Department to create an exception to its standard differential pricing analysis for unique, custom-made large capital goods such as LPTs, the Department should reject Petitioner's proposed exception.⁵⁸ With regard to Petitioner's claim that the Cohen's *d* test produced inexact results in this case, Hyosung claims that the test, as applied by the Department in this case, is consistent and standard with the Department's normal analysis.⁵⁹
- Hyosung argues that while the Petitioner points to natural fluctuations in Hyosung's prices and profit margins, Petitioner disregards any differences that may be attributable to the specific products at issue (*i.e.*, control numbers) and does not specify any particular pattern of pricing to support a finding of differential pricing that would justify a divergence from the standard methodology.⁶⁰
- With respect to Petitioner's claims that the record demonstrates unexplained variances in entered values, significant cost differences for virtually identical products, the inclusion of revenue for spare parts and installation, and inflated freight expenses in the reported U.S. gross unit prices, Hyosung contends that these are claims unsupported by the record and that the Department reject these claims in the final results.⁶¹ Rather, Hyosung claims that it has fully and completely responded to each of the Department's requests for information.⁶² Hyosung argues that the Department rejected very similar claims from Petitioner in the prior administrative review and that Hyosung has at all times and to the best of its ability reported entered values, costs, and revenue consistent with the Department's requests.⁶³

Hyundai's Comments

- Petitioner has offered no theory, nor cited any precedent, of how a T-to-T comparison yields comparisons that are any more appropriate than the Department's standard average-to-average methodology.
- If it is the price comparison itself that is problematic, another price comparison will be just as problematic. The only way to address the problems identified by Petitioner and Hyundai with price-to-price comparisons is to use CV as NV.
- The Department has used CV as NV in prior proceedings involving large, capital

⁵⁷ *Id.* at 8.

⁵⁸ *Id.* at 10-12.

⁵⁹ *Id.* at 11.

⁶⁰ *Id.* at 11 – 12.

⁶¹ *Id.* at 12 – 17.

⁶² *Id.* at 13.

⁶³ *Id.*

equipment and the use of CV as NV would address all of Petitioner's concerns raised earlier, whereas Petitioner's proposed T-to-T solution does not address any problems and thus should be rejected.

Department's Position

As an initial matter, the Department disagrees with Petitioner that alleged flaws in the application of the differential pricing analysis provide a basis for the use of the T-T method. Contrary to Petitioner's arguments, the inability of a differential pricing analysis to identify a pattern of prices that differ significantly—were that indeed the case—is not a basis for using the T-to-T method.⁶⁴ The T-to-T method is not the remedy for masked dumping. The statute prescribes the A-to-T method as the method that may be applied when the Department finds a pattern of prices that differ significantly and “such differences” cannot be accounted for by the A-to-A method or the T-to-T method.

Moreover, Petitioner's claim that the Cohen's *d* test is flawed simply because it is unable to make comparisons of U.S. prices between customers, regions or time periods is not supported by the statute or the Department's practice. The statute states that significant price differences be “for comparable merchandise,” which the Department has defined in the Cohen's *d* test. As part of the definition of comparable merchandise, the product characteristics are limited to merchandise with identical CONNUMs. For LPTs, Petitioner recognizes that this merchandise is unique and custom-made, which on its own would indicate that it may be difficult, if not impossible, to make comparisons of U.S. prices between different customers, regions, or time periods. This fact is also part of Petitioner's argument for using the T-to-T method as an “alternative” comparison method. Similarly, the Department has declined to use comparisons of U.S. prices for similar merchandise.⁶⁵ Petitioner also suggests changes to the Department's Cohen's *d* test to search for a pattern of different profit rates between customers, regions or time periods; however, this is not based on the statutory language that refers to a pattern of export prices that differ significantly.

Petitioner also provides no basis for using the T-to-T method pursuant to the appropriate legal authority. Pursuant to 19 CFR 351.414(c)(2), which reflects the SAA, the Department uses the “transaction-to-transaction only in unusual situations, such as when there are very few sales of subject merchandise and the merchandise sold in each market is identical or very similar or is custom-made.”⁶⁶ The T-T methodology is only used in unusual circumstances and was not intended to have broad application.⁶⁷ The Department has consistently declined to use the T-T

⁶⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 25, 2007), and accompanying Issues and Decision Memorandum at Comment 5 (*CFS Paper from Korea*) (explaining that Commerce determines whether use of the transaction-to-tractions method is warranted before examining whether there is a pattern of prices that differ significantly).

⁶⁵ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 12, 2012); see also *Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part; 2009– 2010*, 79 FR 35312 (June 20, 2014).

⁶⁶ See SAA at 842.

⁶⁷ See *CFS Paper from Korea*, *loc. cit.*; see also *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27374 (May 19, 1997); *Notice of Determination Under Section 129; Antidumping Measures on Certain Softwood Lumber*

methodology where the conditions set out in 19 CFR 351.414(c)(2) are not present.⁶⁸ Specifically, as noted above in Comment 1, we note that sales of LPTs in this review do not satisfy these regulatory requirements for the Department to invoke this limited exception to the standard calculation alternatives. First, the Department's regulations require that there be "very few sales" of subject merchandise. Although Petitioner asserts that respondents had "very few sales," as discussed above in Comment 1, this is not true. To the contrary, both Hyundai and Hyosung had a number of home and U.S. market sales. These figures may be less than the Department typically sees in commodity cases, but these transaction figures are by no means "very few." Further, although the Department's regulations contemplate this methodology where the "merchandise sold in each market is identical or very similar or is custom-made," Hyosung's and Hyundai's products and sales do not justify the T-T methodology. We recognize that LPTs are generally "custom-made" to particular orders and specifications. However, the LPTs sold in each market are not "identical or very similar" to one another but rather, each LPT is built to particular and unique specifications and designs. Here, because the conditions identified in 19 CFR 351.414(c)(1) are not fully present, the Department has declined to use the T-T methodology. Further, Petitioner cites to no case precedent supporting the application of a T-T comparison methodology, nor does it propose a methodology to implement the proposed T-T comparison method. For these reasons, we would be continuing to rely on our standard, A-A methodology for these final results.

Petitioner argues that Hyosung's price and cost data is flawed and that the record demonstrates that Hyosung has misreported and/or altered data for its U.S. sales in order to mask dumping and evade antidumping duties.⁶⁹ Specifically, Petitioner alleges that the record reflects unexplained variances in entered values, significant cost differences for virtually identical products, the inclusion of revenue for spare parts and installation, and inflated freight expenses in the reported U.S. gross unit prices. Petitioner uses these arguments to demonstrate that the Department should rely on a T-T methodology for the final results. While, as described above, we are continuing to rely on an average-to-average methodology for the final results, we are nonetheless responding to Petitioner's claims with regard to "flawed" price and cost data. Petitioner's claims are unfounded and unsupported by record evidence.

First, Petitioner alleges that the record reflects unexplained variances in entered value. Based on record evidence, we continue to find that Hyosung accurately reported its entered values to the Department. Petitioner has compared the entered values of Hyosung's U.S. entries to its U.S. gross unit prices and costs and has argued that differences between these prices and costs and entered values suggest that Hyosung falsified its entered values, U.S. prices and/or costs. Entered value is determined in accordance with CBP regulations, regulations which are distinctly different from those pertaining to the Department's dumping analysis. Record evidence

Products from Canada, 70 FR 22636, 22639 (May 2, 2005).

⁶⁸ See *Sodium Metal from France: Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances*, 73 FR 62252 (October 20, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; and *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5.

⁶⁹ See Petitioner's Case Brief at 20.

indicates that Hyosung did not improperly report its entered values to the Department because these reported values are in fact the actual values reported on Hyosung's CBP entry summary forms.⁷⁰ The record also demonstrates that Hyosung correctly reported its U.S. prices, expenses, and cost data to the Department as corroborated through ample source documents on the record.⁷¹ Further, in the *Preliminary Results*, other than adjusting Hyosung's general and administrative expenses, we accepted Hyosung's reporting of its cost data.⁷²

Second, Petitioner alleges that the record reflects significant cost differences for virtually identical products. In its responses, Hyosung reported project-specific costs.⁷³ The units to which Petitioner points, report the same control number. As the Department verified in the investigation and found in the prior review, as well as in this review, through extensive examination of paired control numbers, the model matching criteria resulted in a majority of reasonable comparisons. In other words, an analysis of how products are chosen for comparison demonstrated that the majority of control numbers matched products that were similar in terms of physical characteristics, particularly with respect to those physical characteristics at the top of the model match hierarchy. Where the comparisons were unreasonable, *i.e.*, unable to find a proper match, the Department relied on CV to ensure the accuracy of the overall margin. There, the Department found no discrepancies in Hyosung's reported costs during its verification in the investigation and likewise found no basis to adjust Hyosung's manufacturing costs in the prior review.

Third, Petitioner alleges that the record reflects the inclusion of revenue for spare parts in the reported U.S. gross unit prices which created distortions in calculating difference in merchandise adjustments. As required by the Department's instructions, Hyosung reported the gross unit price of the transformer under the terms of sale with the unaffiliated customer.⁷⁴ When spare parts were included in the price, Hyosung then included the cost of the spare parts in its cost database.⁷⁵ There is no basis for the Department to reject Hyosung's data on basis of Petitioner's claims.

Finally, Petitioner alleges that the record reflects the inclusion of inflated revenue for installation and freight expenses in the reported U.S. gross unit prices. Petitioner makes no substantive or margin calculation suggestion with respect to Hyosung's reported freight and installation revenues. Rather, Petitioner voices unfounded complaints, despite Hyosung's full cooperation and accurate reporting. Specifically, Hyosung reported and identified its freight and installation revenue pursuant to the Department's request, provided source documentation supporting its

⁷⁰ See, e.g., Hyosung's December 29, 2014, response to Section A of the Department's antidumping duty questionnaire (AQR) at Exhibit A-16.

⁷¹ See, e.g., Hyosung's CQR at Exhibits C-10 to C-16; see also Hyosung's February 25th SQR at Exhibit SA-6; see also Hyosung's April 10th SQR at Exhibits S-29 and S-30; see also Hyosung's July 2nd SQR at Exhibits S-11 to S-13; see also Hyosung's November 11th SQR at Exhibits 1-2.

⁷² See Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Hyosung Corporation in the Antidumping Duty Review of Large Power Transformers from the Republic of Korea," dated August 31, 2015 (Hyosung Cost Calculation Memo).

⁷³ See Hyosung's January 23, 2015, response to Section D of the Department's antidumping duty questionnaire (DQR).

⁷⁴ See, e.g., Hyosung's CQR at page C-21.

⁷⁵ See, e.g., Hyosung's DQR at page D-26.

reporting, and has fully complied with the Department's reporting instructions.⁷⁶ Furthermore, as described in Hyosung's Preliminary Analysis Memorandum and below, in Comment 3, the Department has capped Hyosung's installation and freight revenue by the related expense, per Department practice.⁷⁷ There is simply no record evidence to support Petitioner's claim that Hyosung's reported data is flawed. In sum, the data flaws alleged by Petitioner in no way impugn integrity of the differential pricing analysis.

With regard to Hyosung's argument that the Department should not have conducted a differential pricing analysis in the first place and should eliminate this test from its analysis in its final results as the Department lacks the statutory authority to apply a differential pricing analysis in administrative reviews, because the Department is continuing to make comparisons for Hyosung using the A-to-A methodology, we find Hyosung's arguments to be moot for purposes of this administrative review. Nonetheless, the Court has affirmed the Department's authority to consider an alternative comparison method in an administrative review.⁷⁸

Additionally, with regard to Hyosung's argument that the Department is legally prohibited from zeroing when using the T-to-T method in administrative reviews, we find this argument moot as we are continuing to use the A-to-A method, based on the results of our differential pricing analysis, to calculate Hyosung's weighted-average dumping margin for these final results.

B. Hyosung-Specific Issues

Comment 3: The Department's Capping of Certain Expense Revenues

Hyosung's Comments

- Hyosung explains that in the *Preliminary Results*, the Department capped certain of Hyosung's freight and installation revenues, disallowing any revenues that exceeded associated expenses.⁷⁹
- While Hyosung acknowledges that the Department has, in prior proceedings, treated expense amounts as a "cap" for revenue charged to customers and associated with related expenses, Hyosung argues that the "unique nature" of LPTs render the practice of revenue capping inappropriate in this case.⁸⁰
- First, Hyosung contends that as a result of LPTs being large capital goods, Hyosung is responsible for delivery of LPTs and installation of units after customers receive them. Hyosung argues that its preparation for this process is an "integral and unavoidable"

⁷⁶ See Hyosung's June 8, 2015, Supplemental Questionnaire response at pages 4-5.

⁷⁷ See Memorandum to the File, "Analysis of Data Submitted by Hyosung Corporation in the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea," dated August 31, 2015 (Hyosung's Preliminary Analysis Memorandum) at 3-4.

⁷⁸ See *CP Kelco Oy and CP Kelco US, Inc. v. United States*, Consol. Court No. 13-00079, Slip. Op. 14-42 (CIT 2014); see also *Apex Frozen Foods Private Limited et. al. v. United States*, Consol. Court No. 14-00226, Slip Op. 16-9 (CIT 2016).

⁷⁹ See Hyosung's Case Brief at page 2.

⁸⁰ *Id.*

element of the sales transaction and that shipment and installation of LPTs is different from other products involved in proceedings before the Department, thereby rendering the practice of revenue capping inappropriate here.⁸¹

- Second, Hyosung argues that these expenses are specifically negotiated as part of the overall sales transaction. Hyosung contends that these expenses are part of the fully built-up gross unit price and included in price quotations provided to customers.⁸² Further, Hyosung argues that given the complexities of shipping and installing LPTs and the fact that negotiated prices for LPTs are set far in advance of shipment due to long production lag times, expense revenues are not directly tied to actual expenses.⁸³ Hyosung argues that this is the case regardless of whether revenue items are listed separately on the invoices to the customer.⁸⁴ Hyosung argues that these considerations indicate that revenue capping would be inappropriate here.
- Hyosung argues in the alternative that if the Department continues to apply revenue caps, it should modify its methodology in certain respects.⁸⁵
- First, with respect to inland freight revenues, Hyosung argues that the methodology used by the Department in the *Preliminary Results* capped Hyosung's inland freight revenues by its reported domestic inland freight expenses (*i.e.*, only inland freight expenses incurred in Korea).⁸⁶
- Hyosung disagrees with this methodology, arguing that shipping cost negotiations with customers focus not on the relatively short travel from its production location to the Korean port (*i.e.*, domestic inland freight), but rather on costs incurred in varying lengths and durations of shipment from U.S. ports to the customer (*i.e.*, U.S. inland freight).⁸⁷ Pointing to record evidence, Hyosung contends that U.S. inland freight expenses incurred in the United States are greater than domestic inland freight expenses incurred in Korea and that the reported inland freight revenues relate to its U.S. inland freight expenses.⁸⁸
- For the above-mentioned reasons, Hyosung argues that the Department should cap its reported freight revenue by the sum of its reported domestic inland freight expenses and U.S. inland freight expenses. Alternatively, Hyosung argues that, as discussed above, record evidence demonstrates that as the reported freight revenue relates primarily to U.S. inland freight expenses, the Department should cap Hyosung's reported freight revenue by its reported U.S. inland freight expenses.⁸⁹

⁸¹ *Id.* at 3.

⁸² *Id.*

⁸³ *Id.* at 4.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.* at 5.

⁸⁸ *Id.* at 5-6, citing to Hyosung's May 11, 2015 Supplemental Section A Questionnaire Response (May 11th SQR) at Exhibit SA-7-D.

⁸⁹ *Id.* at 5.

- Second, with respect to installation expense revenues, Hyosung argues that in the *Preliminary Results*, the Department improperly failed to account for installation expenses that the Department classified as indirect when applying its capping methodology.⁹⁰
- Hyosung disagrees with this methodology, arguing that the Department should revise its installation revenue cap to equal the sum of Hyosung's reported direct and indirect installation expenses. Hyosung contends that installation revenue is related to both direct and indirect installation expenses.⁹¹

Petitioner's Comments

- Petitioner states that Hyosung's request that the Department deviate from its regular practice of capping sales-related revenues contradicts the Department's own policies and the statute. Moreover, Petitioner argues that Hyosung's arguments are not supported by the facts of the case. For these reasons, Petitioner states that the Department should continue to apply revenue caps as provided in the statute and in line with past practice.⁹²
- Citing to various proceedings which reference 19 CFR 351.102(b) and 772(c)(1) of the Act, Petitioner argues that the Department's practice has been to decline to treat freight-revenue as an addition to U.S. price.⁹³
- In regards to Hyosung's argument that LPTs are worthy of alternative treatment by the Department with respect to capping associated expense amounts, Petitioner argues that no part of the statute, the regulations or the Department's practice makes a distinction between large capital goods and other goods subject to antidumping duty orders.⁹⁴
- Petitioner also argues that freight delivery is integral in every case, at least up to the delivery point referenced in the terms of sale and that, in this sense, services such as

⁹⁰ *Id.* at 6-7.

⁹¹ *Id.*

⁹² See Petitioner's Rebuttal Brief at page 26.

⁹³ *Id.* at 27-28 where Petitioner cites to *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 77 FR 61738 (October 11, 2012) and accompanying Issues and Decision Memorandum at Comment 3 (*Circular Welded Carbon Steel Pipes and Tubes from Thailand*); see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review*, 77 FR 63291 (October 16, 2012) and accompanying Issues and Decision Memorandum at Comment 6 (*Certain Orange Juice from Brazil*); see also *Retail Carrier Bags* and accompanying Issues and Decision Memorandum at Comment 6; see also *Certain Steel Concrete Reinforcing Bars from Turkey: Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 21634, 21637 (May 1, 2002), unchanged in *Certain Steel Concrete Reinforcing Bars from Turkey: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 66110, 66,112 (October 30, 2002) (*Certain Steel Concrete Reinforcing Bars from Turkey*); see also *Purified Carboxymethylcellulose from the Netherlands: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 48310, 48314 (August 10, 2010), unchanged in *Purified Carboxymethylcellulose from the Netherlands: Final Results of Antidumping Duty Review*, 75 FR 77829 (December 14, 2010) (*Purified Carboxymethylcellulose from the Netherlands*).

⁹⁴ *Id.* at 30.

“freight” will always be “central” for an exchange of goods between parties within or across national borders.⁹⁵

- Petitioner contends that the subject merchandise in this case is LPTs made in Korea, not “services” provided outside of Korea, such as transportation to, and installation of, the disassembled and packed LPTs at the customer’s location. Thus, according to Petitioner, the Department has an obligation to examine whether the net prices for the subject LPTs were at or below a fair market value.
- Petitioner also argues that the distortive nature of claiming inflated profit for the underlying expenses for U.S. sales becomes more obvious when compared to the distinctively different transportation arrangements Hyosung reported for home market sales.
- Further, Petitioner contends that the failure to cap revenues would result in not the calculation of net prices, but of U.S. prices inclusive of Hyosung’s service profits.
- With regard to Hyosung’s argument that inland freight revenue should be capped by the sum of both foreign domestic inland freight and U.S. inland freight, Petitioner argues that this logic is contradicted by record evidence.⁹⁶
- Petitioner argues that in its responses, Hyosung has linked its reported freight revenue to the underlying expense for *domestic inland freight from plant to port of exportation*, not to U.S inland freight expenses.⁹⁷
- Citing to *Retail Carrier Bags from the PRC*,⁹⁸ Petitioner states that the Department does not permit respondents to expand expense fields to include revenue offsets for non-revenue-generating expenses.⁹⁹
- Further, Petitioner contends that the claimed revenue amounts are arbitrary and bear no relationship to either foreign domestic inland freight or U.S. inland freight. Specifically, Petitioner questions Hyosung’s reporting of freight revenue when applying the capping methodology described by Hyosung in its Case Brief.¹⁰⁰
- Petitioner contends that Hyosung has not established a direct link between the reported freight revenue and either foreign inland freight expenses or U.S. inland freight expenses. Petitioner also argues that the statute does not permit the Department to include revenues on services provided with the sale in a respondent’s reported price of the subject merchandise, regardless of the size of those revenues, where a respondent does not prove

⁹⁵ *Id.*

⁹⁶ *Id.* at 33.

⁹⁷ *Id.* at 33 – 34.

⁹⁸ See *Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009) (*Retail Carrier Bags from the PRC*).

⁹⁹ *Id.* at 34.

¹⁰⁰ *Id.* at 34 – 36.

a direct association between claimed revenue and underlying expense. Therefore, Petitioner argues that the Department should disregard Hyosung's reported freight revenue all together for the final results.¹⁰¹

- If the Department decides to continue using Hyosung's reported freight revenue for the final results, Petitioner argues that record evidence makes clear that Hyosung's reported domestic inland freight expenses are associated with its reported freight revenue alone. Therefore, the Department should not cap Hyosung's freight revenue by the sum of foreign inland freight and U.S. inland freight, but rather, by domestic inland freight.¹⁰²
- With regard to Hyosung's argument that the Department must, if it continues capping revenue by related expenses, modify its capping of revenue related to installation expenses, Petitioner argues that the Department applied the appropriate revenue cap for installation expenses in the *Preliminary Results*.¹⁰³
- Petitioner argues that Hyosung's claim that U.S. inland freight is more significant to its U.S. customers than inland freight in Korea is without record basis. Petitioner also argues that Hyosung erroneously supposes that the Department's practice grants a more favorable cap based on the size of an expense item. Petitioner also argues that record evidence demonstrates that only direct installation expenses are related to cash outlays by HICO America as required by the statute.¹⁰⁴

Department's Position

As explained in Hyosung's Preliminary Analysis Memorandum,¹⁰⁵ consistent with the Department's normal practice, in the *Preliminary Results*, we capped sales-related revenues to offset directly associated sales expenses.¹⁰⁶

First, we disagree with Hyosung's argument that the "unique nature" of LPTs renders the practice of revenue capping inappropriate in this case. Hyosung's request that the Department deviate from its regular practice of capping sales-related revenues contradicts the Department's own policies and the statute. The Department has consistently stated that the statute and its regulations do not permit the Department to raise U.S. prices for revenues in excess of the related expense.¹⁰⁷ Additionally, no part of the statute, the regulations or the Department's practice

¹⁰¹ *Id.* at 37.

¹⁰² *Id.* at 37.

¹⁰³ See Petitioner's Rebuttal Brief at 37.

¹⁰⁴ *Id.* at 38. Additionally, HICO America Sales and Technology, Inc. (HICO America) is Hyosung's U.S. sales affiliate.

¹⁰⁵ See Memorandum to the File, "Analysis of Data Submitted by Hyosung Corporation in the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea," dated August 31, 2015 (Hyosung's Preliminary Analysis Memorandum).

¹⁰⁶ See Hyosung's Preliminary Analysis Memorandum at pages 3-4.

¹⁰⁷ See, e.g., *Circular Welded Carbon Steel Pipes and Tubes from Thailand* and accompanying Issues and Decision Memorandum at Comment 3; see also *Certain Orange Juice from Brazil* and accompanying Issues and Decision Memorandum at Comment 6; see also *Retail Carrier Bags* and accompanying Issues and Decision Memorandum at Comment 6; see also *Certain Steel Concrete Reinforcing Bars from Turkey*; see also *Purified Carboxymethylcellulose from the Netherlands*.

makes a distinction between large capital goods and other goods subject to antidumping duty orders with respect to the capping of revenue. For example, freight delivery is integral in every case, at least up to the delivery point referenced in the terms of sale. In this sense, services such as freight will always be central for an exchange of goods between parties within or across national borders – there is nothing “unique” about that. Further, while LPTs may be “unique,” regardless of where they are sold, the merchandise will need to be delivered and/or installed. This is similar to cases involving more traditional commodity type products. For these reasons, as provided in the statute and in line with past practice, we are continuing to cap sales-related revenues to offset directly associated sales expenses for these final results.

Next, with respect to inland freight revenue, we disagree with Petitioner that we should disregard Hyosung’s reported freight revenue altogether for the final results. As the record demonstrates, this revenue is directly related to inland freight expenses.¹⁰⁸ For this reason, we are continuing to rely on, and cap, Hyosung inland freight revenue for these final results.

Further, we disagree with Hyosung’s argument that the Department should either (1) cap its reported inland freight revenue by the sum of its reported domestic *and* U.S. inland freight expenses or (2) cap Hyosung’s reported freight revenue by its reported U.S. inland freight expenses alone. Contrary to Hyosung’s assertions, record evidence supports the conclusion that Hyosung’s reported domestic inland freight expenses are associated directly with its reported inland freight revenue alone. The record does not link U.S. inland freight to Hyosung’s reported inland freight revenue. Specifically, in two separate questionnaire responses, Hyosung itself linked the inland freight revenue directly to the underlying expense, which is *domestic inland freight from Hyosung’s plant to the port of exportation*.¹⁰⁹ The Department does not permit respondents to expand the expense fields to include revenue offsets for expenses that did not generate the revenue.¹¹⁰ Further, Hyosung has directly linked its reported inland freight revenue to domestic inland freight in its U.S. sales database. Consistent with the Department’s past practice, at the *Preliminary Results*, we capped the inland freight revenue by the related freight expense. Therefore, for the above-mentioned reasons, for these final results we are continuing to cap Hyosung inland freight revenue by its reported domestic inland freight expenses.

Finally, with respect to installation expense revenues, we disagree with Petitioner. The record demonstrates that Hyosung has established a direct link between the reported installation revenue and the indirect installation expenses. Specifically, Hyosung reported the installation expenses incurred, on a *transaction-specific basis*, in its January 23, 2015, response to Section C of the Department’s antidumping duty questionnaire (CQR).¹¹¹ Per our request, Hyosung also reported indirect installation expenses.¹¹² In the *Preliminary Results*, we treated these expenses as CEP-

¹⁰⁸ See, e.g., Hyosung’s May 11th SQR at Exhibit SA-7 for sample sale documentation and Hyosung June 8, 2015, supplemental questionnaire response (June 8th SQR) at page 4.

¹⁰⁹ See Hyosung’s June 8th SQR at Exhibit S-18 and Hyosung August 3, 2015, response to the Department’s supplemental questionnaire (August 3rd SQR), at Exhibit S-10.

¹¹⁰ See *Retail Carrier Bags from the PRC* and accompanying Issues and Decision Memorandum at Comment 6 (where the Department rejected respondent’s request to include U.S. brokerage and handling expenses in offset cap because its questionnaire responses indicated that revenue was earned only on inland freight for “deliveries from regional warehouses to the customer.”).

¹¹¹ See Hyosung’s CQR at page C-41.

¹¹² See Hyosung’s June 8th SQR at pages 12-13.

specific indirect selling expenses and deducted them from U.S. gross-unit price when calculating the U.S. net price. As stated above, it is Department practice to cap sales-related revenues to offset directly associated sales expenses. The installation revenue is related to both direct and indirect installation expenses. Specifically, the content of the indirect installation expenses at issue here relate *only* to installation expenses (*i.e.*, there is no evidence on the record indicating that these indirect installation expenses are related to any activity other than installation. Contrary to Petitioner’s claims, it does not follow that only direct installation expenses are related to cash outlays by HICO America. Petitioner has no basis on which to make this claim. Therefore, for these final results, we will be capping Hyosung’s reported installation revenue by the sum of Hyosung’s reported direct and indirect installation expenses.

Comment 4: The Department’s Adjustment to Home Market Warranty Expenses and Indirect Selling Expenses

Hyosung’s Comments

- Hyosung states that it reported both direct and indirect warranty expenses in its home market and U.S. sales databases – direct warranty expenses were reported on a project-specific basis in its home market sales database and indirect warranty expenses were included as indirect selling expenses.¹¹³
- With respect to calculating the indirect selling expense ratio, Hyosung states that it classified all selling, general and administrative expense accounts, including indirect warranty accounts into four categories: (1) direct selling; (2) indirect selling; (3) general and administrative; and (4) common expenses. Hyosung stated that it excluded its direct warranty expenses from all ensuing steps as those were reported in a separate field in its home market sales database.¹¹⁴
- Hyosung explained that, consistent with its reporting of warranty expenses in the investigation and first administrative review, it next allocated its indirect selling expense accounts, including the after-sales service expense accounts the Department used in its revised warranty expense calculation, to domestic, export, and “sales common” based on the number of employees. Hyosung stated that it allocated common expenses to: (1) domestic sales; (2) export sales; (3) sales common; and (4) general and administrative also based on the number of employees. Hyosung states that it then allocated the total value of its “sales common” expenses between domestic and export sales based on relative sales value.¹¹⁵
- Hyosung notes that the Department revised Hyosung’s warranty expenses in the *Preliminary Results* by averaging reported after-service expense ratios, multiplying the result by reported sales prices and then reclassifying the calculated unit expenses as direct

¹¹³ See Hyosung’s Case Brief at 9.

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 10.

selling expenses. Additionally, the Department adjusted Hyosung's reported indirect selling expense ratio to eliminate the accounts included in after-service sales.¹¹⁶

- Hyosung argues that the Department erred in the adjustment to the reported indirect selling expense ratio in the *Preliminary Results*. Specifically, Hyosung states that as it allocated indirect selling expense accounts, including for after-sales service expenses, between domestic and export sales, only a portion of the after-sales service expenses the Department included in the warranty expense ratio were reflected in the reported indirect selling expense ratio and were double counted.¹¹⁷
- Hyosung contends that in deducting total warranty service expenses on sales of all products in all markets from only home market indirect selling expenses, the Department's adjustment overstated the deduction to eliminate double counting for the warranty adjustment, which then resulted in understating the indirect selling expenses incurred in the home market.¹¹⁸
- Consequently, Hyosung argues that for the final results, the Department should revise its programming language to accurately account for revised indirect selling expense ratios in both the home and U.S. markets.¹¹⁹

Petitioner's Comments

- Petitioner contends that the Department correctly adjusted Hyosung's home market warranty expenses in the *Preliminary Results*.¹²⁰
- Petitioner argues that Hyosung failed to follow the Department's questionnaire instructions for reporting home market warranty expenses (*i.e.*, to report warranty expenses consistently for the home market and for the U.S. sales), resulting in the Department's application of neutral facts available (*i.e.*, adjustment of Hyosung's home market warranty expenses in the *Preliminary Results* and subsequent recalculation of Hyosung's indirect selling expense ratio).¹²¹
- Petitioner contends that the Department should continue to follow its normal practice when resorting to neutral facts available and should consider facts available, with an adverse inference, in recalculating Hyosung's home market warranty expenses and the indirect selling expense ratio.¹²²
- Given that the Department would not have needed to apply neutral facts available had Hyosung fully complied with the Department's requests for information on warranty

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 10 – 11

¹¹⁹ *Id.*

¹²⁰ See Petitioner's Rebuttal Brief at 41 – 42.

¹²¹ *Id.* at 42 – 43.

¹²² *Id.* at 44.

expenses, Petitioner argues that the Department should continue to rely on its methodology from the *Preliminary Results* with respect to warranty expenses and indirect selling expense ratios for home market and U.S. sales.¹²³

Department's Position

In its responses, Hyosung stated that it reported both direct and indirect warranty expenses in its home market and U.S. sales databases – direct warranty expenses were reported on a project-specific basis and indirect warranty expenses were treated as indirect selling expenses.¹²⁴ In the *Preliminary Results*, per Department practice, the Department revised Hyosung's indirect warranty expenses by averaging reported after-sale service expense ratios, multiplying the result by reported sales prices, and then reclassifying the calculated unit expenses as direct selling expenses.¹²⁵ Additionally, the Department adjusted Hyosung's reported indirect selling expense ratio to eliminate the accounts included in after-sale services in order to avoid double counting these expenses.¹²⁶ In making this adjustment, the Department erred in its recalculation of the reported indirect selling expense ratios.

In its responses, and consistent with its reporting of warranty expenses in the investigation and first administrative review, Hyosung classified all selling, general and administrative expense accounts, including indirect warranty accounts, into four categories: (1) direct selling; (2) indirect selling; (3) general and administrative; and (4) common expenses.¹²⁷ Hyosung then treated these categories as follows. Hyosung excluded its direct warranty expenses from all ensuing steps as those were reported as direct expenses on a project-specific basis in its home market sales database. Hyosung allocated its indirect selling expense accounts, including the after-sales service expense accounts the Department used in its revised warranty expense calculation, to “domestic,” “export,” and “sales common” fields based on the number of employees. Hyosung stated that it allocated common expenses to: (1) domestic sales; (2) export sales; (3) sales common; and (4) general and administrative based also based on the number of employees. Hyosung then allocated the total value of its “sales common” expenses between domestic and export sales based on relative sales value.¹²⁸

As we allocated indirect selling expense accounts, including for after-sales service expenses, between domestic and export sales, only a portion of the after-sales service expenses that we included in the warranty expense ratio were reflected in the reported indirect selling expense ratio and thus were double counted. In deducting total warranty service expenses on sales of all products in all markets from only home market indirect selling expenses, the Department's adjustment overstated the deduction to eliminate double counting for the warranty adjustment, which then resulted in understating the indirect selling expenses incurred in the home market.

Therefore, for the above-mentioned reasons, for the final results, we have revised our

¹²³ *Id.*

¹²⁴ See Hyosung's January 23, 2015, response to Section B of the Department's antidumping duty questionnaire (BQR) at page B-38.

¹²⁵ See Hyosung's Preliminary Analysis Memorandum at pages 4-6.

¹²⁶ *Id.*

¹²⁷ See Hyosung's BQR at pages B-42 through B-44.

¹²⁸ *Id.*

programming language to accurately account for revised indirect selling expense ratios in both the home and U.S. markets in order to avoid double counting these expenses.¹²⁹

Regarding Petitioner's arguments that Hyosung failed to follow the Department's questionnaire instructions for reporting home market warranty expenses and, as a result, the Department should apply facts available with an adverse inference, Petitioner's arguments are misplaced. The Department has, in the past, and as neutral facts available, applied the average warranty ratio for the three most recently completed fiscal years.¹³⁰ Therefore, the Department is following its own practice with regard to the treatment of warranty expenses.

Comment 5: The Department's Treatment of Ocean Freight Revenue

Petitioner's Comments

- Petitioner argues that the Department should disregard the ocean freight revenue claimed by Hyosung.¹³¹
- Specifically, using two sets of sales documents, Petitioner contends that Hyosung has misreported ocean freight revenue amounts for the sale in question.¹³²
- Due to the proprietary nature of this issue and Petitioner's comments, *see* Hyosung's Final Analysis Memorandum¹³³ at "The Department's Treatment of Ocean Freight Revenue" for a more detailed summary of Petitioner's argument.

Hyosung's Comments

- Hyosung disagrees with Petitioner's recommendation and interpretation of Hyosung's reported ocean freight revenue and argues that the Department should continue to accept its reporting of ocean freight revenue for the final results.

¹²⁹ See Hyosung's Final Analysis Memorandum for further discussion.

¹³⁰ See *Honey from Argentina: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part*, 70 FR 76766, 76769 (December 28, 2005), unchanged in *Honey from Argentina: Final Results, Partial Rescission of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 71 FR 26333 (May 4, 2006) and accompanying Issues and Decision Memorandum at Comment 1. See also *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands: Final Results of Antidumping Duty Administrative Review*, 72 FR 28676 (May 22, 2007) and accompanying Issues and Decision Memorandum at Comment 7, and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement in the Antidumping Duty Order*, 74 FR 22885 (May 15, 2009), and accompanying Issues and Decision Memorandum at Comment 4.

¹³¹ See Petitioner's Case Brief at page 31.

¹³² *Id.* at 32.

¹³³ See Memorandum to the File, "Analysis of Data Submitted by Hyosung Corporation in the Final Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea," dated August 31, 2015 (Hyosung's Final Analysis Memorandum)

- Hyosung contends that it only received and reported ocean freight revenue for one transaction and argues that Petitioner relied on documentation from two unrepresentative sales to claim that Hyosung had misreported ocean freight revenue.¹³⁴
- Hyosung argues that the “unrepresentative sales” that Petitioner point to demonstrate that Hyosung also received freight revenue (U.S. inland freight revenue), reporting of which is fully supported by the documentation cited by Petitioner. Petitioner, Hyosung contends, is attempting to “twist” this documentation to call into question other transactions for which Hyosung was not required to provide sales documents. Each of the sales discussed by Petitioner, Hyosung states, included similar delivery terms and each included freight revenue amounts.¹³⁵
- Furthermore, Hyosung contends that the Department addressed Hyosung’s appropriate inclusion of freight revenue in its reported gross unit price under identical delivery terms during the first administrative review and concluded that Hyosung had correctly included freight amounts in the gross unit prices.¹³⁶
- Hyosung argues that in addressing Petitioner’s identical arguments and references to International Commercial Terms (INCOTERMS) in the prior administrative review that the terms of sale did not support the inclusion of freight amounts in the total amount charged to the customer, the Department expressly rejected those arguments.¹³⁷
- Hyosung contends that while it has correctly reported ocean freight revenue, Petitioner’s request that the Department disregard Hyosung’s reported ocean freight revenue would effectively constitute an adverse inference, and that this would be inappropriate until the Department first concludes the statutory requirements for applying adverse facts available have been met.¹³⁸ Hyosung argues that despite Petitioner’s “speculative” claims, it has not established that the application of adverse facts available is warranted in this instance.

Department’s Position

Using sales documentation from sales that incurred freight revenue *not* related to ocean freight, Petitioner contends that Hyosung has misreported ocean freight revenue for a particular sale and, therefore, for the final results, argues that the Department should deny Hyosung an adjustment for its reported ocean freight revenue. We disagree with Petitioner’s interpretation of Hyosung’s reported ocean freight revenue.

In sum, record evidence supports Hyosung’s reporting of ocean freight revenue. For these final results, we continue to find that Hyosung accurately reported its ocean freight revenue, and we are therefore making no changes to the calculations with regard to this issue.

¹³⁴ See Hyosung’s Rebuttal Brief at page 18.

¹³⁵ *Id.*

¹³⁶ *Id.* at 19.

¹³⁷ *Id.* at 19-20.

¹³⁸ *Id.* at 20.

Due to the proprietary nature of this issue and Petitioner's comments, *see* Hyosung's Final Analysis Memorandum at "The Department's Treatment of Ocean Freight Revenue" for a more detailed explanation regarding the Department's position.

Comment 6: The Department's Treatment of U.S. Commission Expenses

Hyosung's Comments

- Hyosung states that in the *Preliminary Results*, the Department deducted commissions from U.S. price and included specific SAS programming language in the Macro Program to ensure U.S. commissions were not added back into normal value.¹³⁹
- However, according to Hyosung, the Department inadvertently failed to include certain programming language at an additional point in the U.S. Margin Program which would also prevent commission expenses from being added to normal value.¹⁴⁰
- According to Hyosung, as a result of this missing programming language, the Department deducted U.S. commission expenses from the constructed export price and added them to normal value, double counting the commission adjustment and contradicting the Department's intent to avoid adding commissions to normal value.¹⁴¹
- Hyosung argues that the Department should modify the U.S. Margin Program to suppress the addition of U.S. commission expenses to normal value.¹⁴²

Petitioner's Comments

- Petitioner states that Hyosung's claim that the Department erred in its calculation of commission expenses is incorrect and should be rejected for the final results.¹⁴³
- Petitioner argues that the Department's correctly deducted commissions from U.S. price and correctly denied Hyosung a commission offset in the U.S. Margin Program, which was in this case consistent with standard market economy U.S. Margin Program and accompanying Macro Program.¹⁴⁴
- Petitioner contends that Hyosung's commissions on its U.S. constructed export price sales are incurred in the United States. Petitioner argues that the Department therefore correctly denied Hyosung a commission offset, in line with past practice of only granting commission offsets when the commission expenses were incurred outside the United States.¹⁴⁵

¹³⁹ *See* Hyosung's Case Brief at 8.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *See* Petitioner's Rebuttal Brief at 38.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 39 – 40.

- Petitioner also argues that this denial of a commission offset is “economically sound” because Hyosung specifically relied on selling agents within the United States due to their knowledge and familiarity of the U.S. market.¹⁴⁶

Department’s Position

Contrary to Petitioner’s claims, the Department did not, nor did it intend to, deny a commission offset to Hyosung in the *Preliminary Results*. Rather, we correctly granted Hyosung a commission offset in the *Preliminary Results*. Petitioner’s argument is misplaced.

The statute requires that the Department reduce the price used to establish constructed export price by, among other things, “commissions for selling the subject merchandise in the United States.”¹⁴⁷ Further, 19 CFR 351.410 states that, “in calculating normal value the Secretary may make adjustments to account for certain differences in the circumstances of sales in the United States and foreign markets.” 19 CFR 351.410(e) goes on to state that, “the Secretary normally will make a reasonable allowance for other selling expenses if the Secretary makes a reasonable allowance for commissions in one of the markets under considerations, and no commission is paid in the other market under consideration. The Secretary will limit the amount of such allowance to the amount of the other selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.”

Petitioner cites the Department’s decisions in *Pasta from Italy* and *Certain Steel Nails from the United Arab Emirates*¹⁴⁸ to demonstrate that the Department’s practice is to provide a home market commission offset only against U.S. commission expenses incurred outside of the United States and argues that the Department deviated from its practice because Hyosung incurred its commissions in the United States. Although Petitioner correctly characterizes the Department’s practice, it is mistaken in asserting that Hyosung incurred its commissions in the United States, after importation. Hyosung incurs commission expenses at the time it receives its purchase orders. This is generally a matter of many months or even over a year before delivery of the subject merchandise and, thus, occurs outside of the United States. In the context of this review, the Department determined that Hyosung incurred its commissions outside the United States, prior to importation. If Hyosung incurred its commission expenses in the United States, Petitioner is correct in its characterization of the Department’s practice that the Department would deny Hyosung a commission offset. However, this is not that case here. Therefore, it was our intent, pursuant to 19 CFR 351.410(e), to grant commission offsets for sales where commission expenses are incurred in one market but not the other.

For this reason, we find no basis to deny the commission offset. We have, however, made changes to the margin-calculation programs in order to correctly characterize our finding that Hyosung’s commission expenses are incurred outside the United States, prior to importation. Specifically, the standard margin-calculation programs do not include commissions in the calculation of CEP profit and do not deduct commissions from U.S. gross unit price (in

¹⁴⁶ *Id.*

¹⁴⁷ See 19 USC 1677a(d)(1)(A).

¹⁴⁸ See *Certain Steel Nails from the United Arab Emirates* and accompanying Issues and Decision Memorandum.

calculating net U.S. price), when commission expenses were incurred outside the United States, prior to importation. Rather, as described above, the margin-calculation programs adjust normal value for commission expenses when commission expenses are incurred outside the United States, but not in the home market, as is the case here. See Hyosung’s Final Analysis Memorandum for more detailed information about the specific changes to the programs.

Further, with regard to Hyosung’s argument that in the *Preliminary Results*, we inadvertently failed to include certain programming language which would prevent commission expenses from being added to normal value, we find this argument moot. As described above, in order to correctly characterize the Department’s finding that Hyosung’s commission expenses are incurred outside the United States, prior to importation, we have made changes to the margin calculation programs.¹⁴⁹

Comment 7: Clerical Error Related to U.S. Direct Selling Expenses

Petitioner’s Comments

- Petitioner states that for purposes of the *Preliminary Results*, the Department defined the U.S. direct selling expenses in its U.S. Margin Program as “WARRAVGU.”¹⁵⁰ Petitioner contends that U.S. direct selling expenses, however, were not included in either the formula the Department used to calculate constructed export price profit or the Department’s calculation formula for U.S. net price.¹⁵¹
- Citing to the Department’s Policy Bulletin 97/1¹⁵² and Section 772(d) of the Act, Petitioner argues that the Department should have deducted the amounts for U.S. direct selling expenses, as well as profit allocated to U.S. direct selling expenses, when calculating U.S. net price.¹⁵³
- For the final results, Petitioner contends that the Department must include U.S. direct selling expenses when calculating constructed export price profit and net U.S. price in its margin calculation.¹⁵⁴

Hyosung’s Comments

- Hyosung argues that Petitioner was incorrect in its allegation and that the Department’s calculations were “consistent with policy of classifying direct selling expenses as an adjustment to normal value, rather than U.S. price.”¹⁵⁵

¹⁴⁹ See Hyosung’s Final Analysis Memorandum for additional information.

¹⁵⁰ “WARRAVGU” is per-unit warranty expense calculated by the Department, for Hyosung, in the *Preliminary Results*.

¹⁵¹ See Petitioner’s Case Brief at page 32 – 33.

¹⁵² See Policy Bulletin 97/1, *Calculation of Profit for Constructed Export Price Transactions* (September 4, 1997).

¹⁵³ *Id.* at 33 – 34.

¹⁵⁴ *Id.* at 34.

¹⁵⁵ See Hyosung’s Rebuttal Brief at page 21.

- Hyosung adds that Petitioner's request to include U.S. direct selling expenses in calculating U.S. net price would effectively result in double counting, by deducting selling expenses from U.S. price and adding those same expenses to normal value.¹⁵⁶
- Hyosung contends that to the extent that the Department determines that these warranty expenses are constructed export price expenses that are appropriately used to calculate constructed export price profit and deducted from U.S. price, the Department should classify these expenses as "CEPOTHER" rather than treat them as U.S. indirect selling expenses.¹⁵⁷

Department's Position

In the *Preliminary Results*, because we did not have the fiscal year 2012 and 2013 U.S. warranty expenses (as separated from installation expenses), as neutral facts available, we allocated the total fiscal year 2014 warranty expenses, as reported by Hyosung in its U.S. sales database, over the total U.S. sales value in this instant period of review to determine a per-unit warranty expense.¹⁵⁸ In the *Preliminary Results*, the Department erred in treating this expense as a direct selling expense in its U.S. Margin Program (*i.e.*, by including it in field USDIRSELL).

As Hyosung explained in its responses, and as documented by record evidence, these expenses are incurred solely by HICO America in the United States.¹⁵⁹ Therefore, these warranty expenses (*i.e.*, field WARRAVGU) should have been treated as CEP direct selling expenses in the U.S. Margin Program (*i.e.*, included in field "CEPOTHER").

While Petitioner is correct in arguing that these warranty expenses should be accounted for in calculating CEP profit, and therefore, in the calculation of U.S. net price, Petitioner's proposed methodology (*i.e.*, to simply include the variable for U.S. direct selling expenses (*i.e.*, USDIRSELL) in the formula calculating U.S. net price) would effectively result in double counting, by deducting selling expenses from U.S. price and adding those same expenses to normal value because field USDIRSELL is added to the foreign unit price (in U.S. Dollars) to calculate normal value. Consequently, merely adding field USDIRSELL to the formula calculating U.S. net price in the U.S. Margin Program, as proposed by Petitioner, would result in additional errors.

Therefore, for these final results, we have treated these warranty expenses as CEP direct selling expenses and included them in field CEPOTHER. In doing so, these warranty expenses are now being accounted for in calculating CEP profit, and therefore, in the calculation of U.S. net price.¹⁶⁰

¹⁵⁶ *Id.* at 21.

¹⁵⁷ *Id.*

¹⁵⁸ See Hyosung Preliminary Analysis Memorandum.

¹⁵⁹ See Hyosung's CQR at page C-37; see also Hyosung's June 8th SQR at pages 11-12.

¹⁶⁰ See Hyosung's Final Analysis Memorandum for additional information.

C. Hyundai-Specific Issues

Comment 8: Hyundai's Reporting of Constructed Value

Petitioner's Comments

- Hyundai failed to cooperate to the best of its ability in reporting CVs for certain U.S. sales. Specifically, Hyundai failed to submit a completed Section D constructed value response as required by the questionnaire and the Department's practice.
- As partial facts available, the Department should assign the highest price-to-price margin to these sales.
- Hyundai also failed to provide its fiscal year (FY) 2014 general and administrative (G&A) and financial expense ratios.
- The Department cannot rely on the FY 2014 G&A and interest ratios used in the Preliminary Determination because this information has not been verified as is required by the statute; there is no information on this record to demonstrate that the 2013 ratios are reflective of Hyundai's 2014 experience; and, the hybrid calculation by its very nature is not reflective of the actual audited 2014 financial statements that most closely corresponds to the POR.
- The FY 2014 G&A and financial expense ratios calculated by the Department for the Preliminary Determination was a form of facts available, but it was an application that inadvertently rewarded Hyundai for its noncooperation.
- Hyundai should not be permitted to benefit from its uncooperative behavior in this regard. At a minimum, therefore, the Department should set Hyundai's G&A and financial expense ratios to zero.

Hyundai's Comments

- Hyundai did not comment on this issue.

Department's Position

We disagree with Petitioner that the use of facts available is warranted for the calculation of CV for certain U.S. sales. We also disagree with Petitioner's suggestion that the Department set Hyundai's G&A and financial expense ratios to zero. For the final determination, we calculated CV for the sales at issue as well as Hyundai's G&A and financial expense ratios in the same manner as we did for the Preliminary Determination.

Section 773(e) of the Act directs the Department to calculate CV as the cost of materials and fabrication (total cost of manufacturing (TCOM)) plus amounts for selling, general and administrative expenses, profit, and U.S. packing costs. In regard to the calculation of CV for

the U.S. sales identified by Petitioner, we find that Hyundai reported the TCOM and packing expenses for these sales in its U.S. sales data file.¹⁶¹ Hyundai also submitted its FY 2013 G&A and financial expense rates.¹⁶² In regard to CV selling expenses and profit, Hyundai provided the data necessary for the Department to calculate these amounts.¹⁶³ Moreover, Hyundai responded to the Department's DIFMER and supplemental DIFMER questionnaires that contained questions regarding Hyundai's CV information.¹⁶⁴ Because Hyundai provided the CV information required by the Department, we find the use of facts available as suggested by petitioner is not warranted.

In regard to G&A and financial expenses, Hyundai submitted its G&A and financial expenses ratios, based on its FY 2013 financial statements, in Hyundai's January 26, 2015 submission.¹⁶⁵ The Department noted in its verification report, dated the same day as the *Preliminary Results*, that although Hyundai submitted, and the Department verified, the G&A and financial expense ratios based on FY 2013 financial statements, the majority of the POR occurred in FY 2014 (*i.e.*, seven out of 12 months).¹⁶⁶ Therefore, for the Preliminary Results, the Department recalculated Hyundai's G&A and financial expense ratios based on the company's FY 2014 financial statements.¹⁶⁷ Because the detailed data necessary to determine the amount of the Hyundai's indirect selling expenses (ISE) included in the G&A expenses and the net non-operating expenses not included in FY 2014 G&A expenses are not on the record of this proceeding, we relied on Hyundai's FY 2013 detailed ISE and net non-operating expenses information to determine the FY 2014 amounts.¹⁶⁸ Likewise, we used Hyundai's FY 2013 information to determine the adjustments to Hyundai's FY 2014 financial expense ratio for packing and freight.¹⁶⁹

The Department did not request Hyundai to revise its ratios based on FY 2014 (*see, e.g.*, the DIFMER supplemental). Further, Hyundai was first made aware of the Department's decision to calculate FY 2014 G&A and financial expense ratios in the Department's verification report which was dated that same day as the Preliminary Results. Therefore, because we find that the Department did not provide Hyundai an opportunity to revise its G&A and financials expense ratio, we do not find that Hyundai to be uncooperative as suggested by Petitioner.

We disagree with Petitioner that the FY 2014 data was not verified. The FY 2014 data was on the record prior to the verification and, as such, was subject to verification.¹⁷⁰ The Department's

¹⁶¹ See Hyundai's June 26, 2015 submission at attachment 16.

¹⁶² See, *e.g.*, Hyundai's January 26, 2015 section B Submission at attachments B-20 and B-21.

¹⁶³ See Hyundai's comparison market data file submitted to the Department On August 21, 2015.

¹⁶⁴ See Hyundai's May 22, 2015 and June 26, 2015 submissions, respectively.

¹⁶⁵ See attachments B-19 and B-20.

¹⁶⁶ See Memorandum to the File from LaVonne Clark, Senior Accountant, Frederick Mines, Accountant, and Edythe Artman, International Trade Compliance Analyst, on the subject of "Verification of the Sales and Cost Responses of Hyundai Heavy Industries Co., Ltd., in the 2013/2014 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea, dated August 31, 2015 (Hyundai's Verification Report) at 2.

¹⁶⁷ See *Preliminary Results* and accompanying Decision Memorandum at 14.

¹⁶⁸ See Preliminary Cost Memo at 1-3 and attachment 1.

¹⁶⁹ See *id.* at attachments 1 and 3.

¹⁷⁰ Hyundai placed its FY 2014 audited unconsolidated and consolidated financial statements on the record of this proceeding on June 26, 2015 (*see* June 26, 2015 DIFMER supplemental response at attachment 13). Verification began July 16, 2015 (*see* Verification Report at 1).

focus during verification was on Hyundai's reported G&A and financial expense data but this does not render the FY 2014 data to be unverified. As noted, the Department's verification report specifically made issue of which fiscal year should be used in our final calculations.¹⁷¹ Contrary to Petitioner's assertion, the Courts have ruled that verification is a spot check that is not intended to be an exhaustive examination of the respondent's business. The Courts have also found the Department "has considerable latitude in picking and choosing which items it will examine in detail."¹⁷² Finally, we note that Petitioner has failed to point to any record information to support its allegations that the Department's use of FY 2013 data to calculate certain components of Hyundai's FY 2014 G&A and financial expense rates is not reflective of Hyundai's FY 2014 experience. Therefore, we find that relying on the FY 2013 information to be a reasonable approach in calculating the FY 2014 information. As such, we find these arguments to be without merit. Therefore, for the final determination, we have continued to rely on the FY 2014 financial ratios the Department calculation in the Preliminary Determination.¹⁷³

Comment 9: The Department's Treatment of U.S. Commission Offset

Petitioner's Comments

- The Department incorrectly calculated normal value in its margin-calculation program by granting Hyundai an offset for commissions paid in the U.S. market when no commissions were paid in the home market, contrary to the Department's established practice and the statute. The Department should have included the reported commission amounts with other CEP selling expenses incurred in the United States in its calculations, instead of including it as commissions incurred on CEP sales outside the United States. Further, it should not have granted a commission offset to normal value.
- There were no commissions paid on home market sales and, according to the Department's verification report, the commissions paid on the CEP sales were incurred in the United States by HDCP USA. Thus, the commissions should have been included with other CEP selling expenses incurred in the United States (*i.e.*, assigned to the variable CEPOTHER) in the margin-calculation program, instead of being assigned to the variable COMMU, as commissions incurred on CEP sales outside the United States. The Department should make this correction for the final results of review.

¹⁷¹ See Verification Report at 2.

¹⁷² See *F.lli De Cecco di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000); see also *NTN Bearing Corp. of Am. v. United States*, 186 F. Supp. 2d 1257, 1296 (CIT 2002).

¹⁷³ See Hyundai's Final Cost Memorandum.

Hyundai's Comments

- The Department affirmatively determined that it was appropriate to grant a commission offset in the first administrative review and the preliminary results of the current review and should continue to grant the offset for the final results.
- The nature of Hyundai's U.S. commissions differ from those for which the Department has not granted a commission offset in that Hyundai incurs commissions before the importation of the subject merchandise into the United States whereas the Petitioner cited a case where the commission expenses were incurred after importation.

Department's Position

As discussed in Comment 6, the relevant provisions of the law allow for granting a commission offset where commissions have been incurred in one market but not the other. Pursuant to 19 CFR 351.410(e), the Department normally will make a reasonable allowance for other selling expenses if the Secretary makes a reasonable allowance for commissions in one of the markets under considerations, and no commission is paid in the other market under consideration. The Department will limit the amount of such allowance to the amount of the other selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

Petitioner cites the Department's decisions in *Pasta from Italy* and *Certain Steel Nails from the United Arab Emirates*¹⁷⁴ to demonstrate that the Department's practice is to provide a home market commission offset only against U.S. commission expenses incurred outside of the United States and argues that the Department deviated from its practice because Hyundai incurred its commissions in the United States. Although Petitioner correctly characterizes the Department's practice, we do not agree that Hyundai incurred its commission expenses in the United States. In its Section C Response, Hyundai stated it normally pays commissions after the LPT is delivered to the customer's site and all required on-site services (*e.g.*, installation) have been performed. Further, as noted by Petitioner, the sales-trace documentation obtained at verification shows that, for some sales, the amount of the commission to be paid to the sales agent was not agreed upon until after the LPTs had entered the United States.¹⁷⁵ However, there is also sales-trace documentation showing the opposite, where the commission agreement was signed before importation.¹⁷⁶ Finally, Hyundai officials stated at verification that the commission amounts were agreed upon after shipment of the LPT and were often paid by HDCP USA only after it received payment from its U.S. customer.¹⁷⁷

From the record, we can conclude that the commission agreement, which finalized the amount owed to a sales agent, was sometimes signed after importation of the LPT and sometimes before

¹⁷⁴ See *Certain Steel Nails from the United Arab Emirates* and accompanying Issues and Decision Memorandum at Comment 5; *Certain Pasta From Italy* and accompanying Issues and Decision Memorandum at Comment 6.

¹⁷⁵ See Hyundai's Verification Report at SVE-12 and SVE-14.

¹⁷⁶ *Id.* at SVE-15. The same supporting documentation can be found in Hyundai's Section C Response at Attachment C-17.

¹⁷⁷ See Hyundai's Verification Report at SVE-12 and SVE-14.

that point in time. However, it does not change the fact that, for sales with commissions, the sales agent was involved in the sales negotiation and brokering which took place prior to the issuance or receipt of the purchase order. Thus, Hyundai had incurred the commission expenses before production of the LPTs, even if the final amount to be paid to the sales agent had not been established at that time.

For this reason, we find that a home-market commission offset is warranted for Hyundai in this review. However, a review of our preliminary margin calculations shows that, while we entered the commission amounts in the margin-calculation program correctly, we made adjustments to U.S. net price instead of normal value to account for the offset. As detailed in our analysis memorandum of the final results for Hyundai, we have modified the margin-calculation program for the final results so that the offset is properly reflected in the calculation of normal value.

Comment 10: Hyundai's Failure to Report Reimbursed Expenses

Petitioner's Comments

- Documents obtained at verification demonstrate that Hyundai improperly reported its gross unit prices for U.S. sales by including revenues in the prices for services in excess of the expenses incurred on the services. The Department should cap such revenues by the amount of directly-associated expenses, in keeping with its long-established practice of capping these revenues. By including the excess revenues in its reported gross unit prices, Hyundai artificially increased the prices of the U.S. sales.
- Because Hyundai did not provide an individual reporting of revenue items for its U.S. sales – items that could then be capped by associated expenses – the Department has no means to calculate an accurate U.S. net price or dumping margin on any U.S. sale and must thus base the final results for Hyundai on some form of facts available. Given Hyundai's purposeful misstatement of gross unit price and its other failures to cooperate with the Department's requests for information, as set forth in Petitioner's brief, the Department should apply total facts available to Hyundai.
- If the Department does not apply total facts available, it should at least apply partial facts available to Hyundai's final margin by reducing the company's reported U.S. gross unit prices by the amount of highest calculated profit on sales expenses, as indicated by sales-trace information on the record.

Hyundai's Comments

- Petitioner's argument and manipulated presentation of the record is similar to that presented to and rejected by the Department with respect to Hyundai's reported prices in the investigation of the proceeding. In the investigation, the Department recognized that services included within the terms of certain sales were not separately-arranged services made on behalf of the customer and for which reimbursement was sought from the customer. This distinction is clearly set forth in *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) and accompanying Issues and Decision Memorandum at Comment 12, where the Department found that two respondents had arranged and prepaid freight and insurance at the request of a customer.

- Precedent cited by Petitioner does not apply to Hyundai because, in a review of the order on light-walled rectangular pipe and tube from Mexico, the Department found the respondent allowed customers to purchase insurance separately from subject merchandise and, in reviews of the order on certain orange juice from Brazil, the Department also distinguished services included within the terms of sale from those the respondent arranged for the customer.
- The examples from Hyundai's sales data cited by Petitioner demonstrate that Hyundai did correctly report its U.S. gross unit prices. With respect to the first example, it concerns the value of a component incorporated into the LPT and not a separate service. The second example is a sale where the contract was made on a lump-sum basis and items cited by Petitioner as additional services were included in the terms of sale. The third example also concerns a sale where the cited services were included in the terms of sale, as was the case for the fourth example, which was made to the same customer with the same terms of sale. Finally, the fifth example reflects a misrepresentation of the purchase order by Petitioner, as the "line items" cited by Petitioner do not actually appear on the order but as "line item descriptions" on the contract agreement between HHI and HDCP USA.

Department's Position

In general, reimbursed expenses only arise when the expenses are listed as separate line items on a sales invoice and there is a clear distinction between the line-item price of a product and its invoice price (*i.e.*, including the price of the product and additional expenses). Further, it is incumbent upon a respondent company to report such expenses and corresponding revenues in separate data fields from the field for gross unit price in its sales listing, as instructed in our antidumping duty questionnaire. In the current review, Hyundai did not report any of these expenses or revenues and based its reported gross unit price for U.S. sales on the invoice price, less any expenses for "spare parts."¹⁷⁸

A review of sales documentation on the record, including the sales traces reviewed at verification, show no indication that Hyundai improperly reported its sales data. Although some expense amounts (and spare part amounts) may have been broken out in the purchase orders, the totals on the purchase orders are lump-sum amounts and these amounts all tie to the invoice totals. Based on our review of the sales traces, we find that the expenses with which Petitioner

¹⁷⁸ In the current review, as in previous segments of the proceeding, the Department instructed respondents to report gross unit price to only reflect the price of the LPT and not any spare parts, unless such parts were needed to assemble an incomplete LPT. See "Memorandum to the File, Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea: Phone Conversation with Frank Morgan, counsel to Hyundai Heavy Industries Co., Ltd. (Hyundai)" dated January 11, 2012, and Hyundai's Supplemental Questionnaire Response, dated January 23, 2012 at 43 to 44.

takes issue represent a main component of a LPT, freight expenses, and other costs related to shipment or production of the LPTs. None of these expenses are inconsistent with the reported terms of sale (*i.e.*, the freight expenses are consistent with the terms of delivery) and, as they were not listed as a separate line item on the sales invoices or separately invoiced to the customers, we find no basis to indicate Hyundai sought or obtained re-imbursements for the expenses from the customers. Petitioner has noted that some of the expense amounts exceed those actually incurred by Hyundai for the services, resulting in a profit for Hyundai. This finding, however, is immaterial to the question of whether Hyundai obtained reimbursement from its customers. Petitioner also cited Department determinations supporting our practice of capping revenues by the amount of directly-associated expenses. This practice is not relevant to the discussion, however, because Hyundai has not reported revenues from reimbursements and the record does not suggest it should have done so.

As observed by Hyundai, Petitioner raised a similar argument in the investigation of this proceeding. At that time, we concluded that the company “invoices on a lump-sum, project basis and that it does not separately invoice customers for services”.¹⁷⁹ Based on the record of the current review, we again reach this conclusion. Thus, we find that Hyundai was not obligated to report separate expenses and revenues for reimbursed services related to its U.S. sales and that its reported gross unit price for each sale is the appropriate basis for the calculation of CEP for its final dumping margin.

Comment 11: Hyundai Reporting of U.S. and Home Market Dates of Sale

Petitioner’s Comments

- Although the Department’s regulations provide that the Department will normally use the date of invoice as the date of sale, 19 CFR 351.401(i) provides that the Department may use another date if that date better reflects the date on which the material terms of sale are established. The Department’s well-established practice is to confirm a sale as completed where the material terms are definite and firm.¹⁸⁰ The CIT has held that such material terms include price, quantity, delivery terms, and payment terms.¹⁸¹
- Although the Department has accepted Hyundai’s reporting of the date of the initial purchase order as the date of sale that establishes the material terms of sale, the verification report confirms that changes to pricing occur subsequent to receipt of the purchase orders in both markets.
- Because the record confirms that the essential terms of sales for the LPTs are not established until the final purchase orders are issued, an accurate margin calculation

¹⁷⁹ See *Large Power Transformers From the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 77 FR 40857 (July 11, 2012) (*LPTs Final Determination*), and accompanying Issues and Decision Memorandum at Comment 4, 29.

¹⁸⁰ See *Drill Pipe from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 76 FR 1966 (January 11, 2011), and accompanying Issues and Decision Memorandum at Comment 10.

¹⁸¹ See *Nakornthai Strip Mill Pub. Co. v. United States*, 614 F Supp. 2d 1323, 1333-34 (CIT 2009).

would require dates of sale to be reported on this basis. If the changes in the material terms of a single sale are significant enough to drive the choice of the date of sale, then changes in the purchase orders are sufficient to find that the initial purchase order date cannot serve as the date of sale in this case. As the record stands, the Department does not have an accurate U.S. or home-market sales file that permits it to calculate a margin as accurately as possible because the date of sale variable is incorrect.

- Use of the initial purchase order date as the date of sale has caused significant distortions in the difference-in-merchandise (DIFMER) adjustment, in part because it results in the DIFMER being not based solely on differences in the physical characteristics of the LPTs merchandise. Use of the initial purchase order date distorts the model matching because it creates the possibility of matching sales for which costs were incurred in different time periods.
- The Department would be fully justified in basing the final results on facts available because (1) the necessary information to determine the correct date of sale for each sale is not on the record; (2) Hyundai failed to provide all of the information that was relevant to the date of sale decision in the form and manner requested by the Department; and (3) the statements made by Hyundai concerning the choice of the initial purchase order date as the date of sale could not be verified as correct. Moreover, the record demonstrates that Hyundai failed to cooperate to the best of its ability by not providing complete and accurate information concerning the nature and frequency of change orders in the U.S. and home markets, thereby warranting the application of adverse facts available.
- If the Department declines to apply total adverse facts available, the only reasonable alternative would be to match sales in the two markets based on the dates of shipment as neutral facts available. Matching sales by date of shipment would eliminate most of the distortion to DIFMER caused by the lags between the initial purchase order date and the date of shipment, as the date of shipment is a reasonable indication of the end of production of a product.

Hyundai's Comments

- The Department instructed Hyundai to report date of sale based on purchase order date, following Petitioner's and the Department's conclusion in the investigation of the proceeding that the material terms of sale are established by the purchase order. Midstream in the investigation, Petitioner began to argue that the Department should rely upon an earlier document in the sales process than the purchase order as the date of sale and emphasized that the date of sale for capital equipment differed from other types of subject merchandise because production would not begin unless the parties had agreed on the material terms of the sale. Now, Petitioner argues the Department should follow date-of-sale decisions taken in proceedings involving mass-produced goods, even though LPTs are custom-made, capital goods.
- In the investigation, the Department found, specific to Hyundai, that the purchase order was the earliest document which established both price and quantity, even though both

Hyundai and the Petitioner acknowledged that changes to pricing may occur until invoicing or later. Furthermore, the existence of change orders was well known to Petitioner at the time of the investigation and noted by Hyundai in its Section A questionnaire response in this review.

- Petitioner's demand that the Department now use shipment date as the date of sale is unprecedented in investigations involving large, capital goods and appears to boil down to one point – an increase in Hyundai's dumping margin.

Department's Position

In the investigation for this proceeding, we concluded that the date of the initial purchase order was the most appropriate date of sale for both Hyosung and Hyundai, and all interested parties agreed based on industry practice and the circumstances of selling LPTs.¹⁸² With respect to Hyundai, we found that:

{T}he PO is the earliest document which establishes both a price and a quantity, even though all parties have acknowledged that changes to pricing may occur up until invoicing or later. However, the record shows that it is the PO where there is a meeting of the minds with regard to both price and quantity.

Id. at 20. We further found for both respondents that:

Therefore, without resorting to establishing a different date of sale for each individual sale, the Department is following its normal practice of using a uniform date of sale. *See Preamble*, 62 FR at 27348-50 (“{W}e have retained the preference for using a single date of sale for each respondent, rather than a different date of sale for each sale” because, *inter alia*, “by simplifying the reporting and verification of information, the use of a uniform date of sale makes more efficient use of the Department’s resources and enhances the predictability of outcomes”). Based on the record evidence in this investigation concerning both respondents, we have determined that there is no document prior to the PO that establishes the material terms of sale, including price and quantity. While prices may change even after the issuance of the PO, it is clear from the record that the issuance of the PO takes place before production begins and is the document which commits the parties to the purchase and production of an actual large power transformer (in contrast to simply committing to be a potential supplier of transformers). There may be documents in individual sales which are issued internally or on occasion by the U.S. customer, but none of these documents alone establish a commitment of the parties in the manner of the PO. Thus, in light of the totality of the record in this proceeding, the PO date is the date that best reflects the date on which the material terms are established.

Id. at 21.

¹⁸² *See LPTs Final Determination* at Comment 1.

Because the Department's determined that the initial purchase order was the date of sale in both markets and we followed this determination in the first administrative review, we instructed parties in our antidumping duty questionnaire for this review to report their sales data based on the initial purchase order date. In our preliminary results of the current review, we found no basis to deviate from our earlier determinations. Based on a review of sales documentation on the record, including sales-trace documentation obtained at verification, we concluded that the material terms of sale were agreed upon by parties at the time of receipt of the initial purchase order and that, therefore, the initial purchase order date was the most appropriate date of sale for both home- and U.S.-market sales for Hyosung and Hyundai.¹⁸³

Petitioner has argued that the sales traces documentation shows that the material terms of sale were changed after the receipt of the initial purchase order in revised purchase orders or change orders. Due to the proprietary nature of Petitioner's claims, a detailed discussion appears in Hyundai's analysis memorandum for the final results.¹⁸⁴ As a result of this discussion, we found there to be no inconsistencies between the information provided by Hyundai in its questionnaire responses and the documentation provided at verification for purposes of our preliminary results. We also found that no information had been placed on the record that indicated a change in the industry practice with respect to the sales process for LPTs, which involves establishing the essential elements of a sale in an initial purchase order and making later changes to those terms as necessary. For these reasons, we found no basis to change from our earlier determinations regarding the date of sale for this product.

We are not persuaded that the various cases cited by Petitioner should lead us to a different outcome. The Department's practice, as explained in the *Preamble* and in the investigation of this proceeding, is to generally rely on a uniform date of sale. Without resorting to establishing a different date of sale for each individual sale, the Department finds the date that best represents the time when the material terms of sale are established for all sales. Here, for the reasons detailed above, that date is the date of the initial purchase order.

Petitioner argued that, because the initial purchase order date is the incorrect choice for date of sale, Hyundai did not provide the Department with the actual date of sale for U.S. and home-market sales and, consequently, the Department cannot fulfill its statutory mandate to calculate a margin as accurately as possible. Because we continue to find that initial purchase order date is the appropriate choice for date of sale, we find that Hyundai has provided us with the necessary sales data to calculate an accurate margin.

Petitioner also argued that use of initial purchase order date as the date of sale would cause distortions in the calculation of the DIFMER adjustment, as the adjustment would not be based on differences in variable production costs related solely to the physical characteristics of a product. Due to its proprietary nature, a detailed discussion of Petitioner's assertions appears in

¹⁸³ See Preliminary Decision Memorandum at 7-9.

¹⁸⁴ See Memorandum to the File from Edythe Artman, International Trade Compliance Analyst, on the subject of "Hyundai Heavy Industries Co., Ltd. and Hyundai Corporation, USA – Analysis Memorandum for the Final Results of the 2013/2014 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea", dated March 8, 2016 (Hyundai's Final Analysis Memorandum) at 2.

Hyundai's Final Analysis Memorandum.¹⁸⁵ As a result of this discussion, we found Petitioner's analysis to be unsupported by the record and its argument to be speculative and unpersuasive for purposes of this review.

In light of these considerations, we find that Hyundai did comply with our requests for information concerning the date of sale and that there is no basis for the application of partial facts available to this information. Accordingly, we will continue to rely on this information in our final margin calculations.

Comment 12: Hyundai's Reported Installation and Supervision Expenses

Petitioner's Comments

- Hyundai incorrectly reported installation and supervision expenses incurred in both markets by failing to allocate any of these expenses to spare parts, even though it did so in the previous administrative review and the Department accepted its allocation basis. As a result, Hyundai overstated these expenses for any home-market or U.S. sale that has a reported value of spare parts in the sales database that is greater than zero.
- The Department should correct the reported expenses for home-market sales by decreasing the supervision/installation values by assigning a proportional amount of these expenses to spare parts and, because Hyundai's failure to allocate the expenses appears to have been purposeful, the Department should allocate the expenses to spare parts by reducing the value reported in the field OTHMOVEH (*i.e.*, installation expenses) by the highest percentage that the value of spare parts represents of the total of the sum of the LPT and spare parts. For U.S. sales, the Department should reduce the values reported in the fields SUPERVISIONU_KRW, SUPERVISIONU and INSTALLATIONU (*i.e.*, supervision and installation expenses) by the lowest percentage that the value of spare parts represents of the total of the sum of the LPT and spare parts.

Hyundai's Comments

- Petitioner's demand for application of AFA to Hyundai's supervision and installation expenses is unwarranted, as Hyundai prepared its sales listings for both markets before the Department confirmed the appropriate methodology for allocating the expenses for sales that included spare parts in the final results of the previous review.
- All of the information necessary to recalculate the allocation of the supervision and allocation expenses for sales including spare parts can be taken from the sales listings, although Hyundai provided the recalculations in an attachment to its rebuttal comments. The recalculations show that the allocations have a barely discernable effect on the amount of reported expenses.

¹⁸⁵ Hyundai's Final Analysis Memorandum at 4.

Department's Position

As the parties have both noted, this issue was covered in the previous administrative review, in which we determined that:

With respect to the supervision and installation expenses, the record is not as clear, and the Department accepts Hyundai's explanation that its methodology is reasonable as Hyundai has provided a justification why supervision relates to the overall assembly and installation of the LPT. The Department agrees with Hyundai that "{a}lthough spare parts themselves might not be installed during the installation, instructions on how to install the parts are typically provided during the assembly process" (footnote omitted) and that there is supervision of the installation of the parts, which the spare parts would replace. As such, the Department agrees that the instructions during the supervision apply equally to the original parts and spare parts and therefore, it is reasonable to allocate supervision to spare parts.

See Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 17034 (March 31, 2015) (*LPTS 2013-2014 Final Results*) and accompanying Issues and Decision Memorandum, Comment 18, 49-50. By the time our final results were issued for the previous administrative review, Hyundai had already filed its original questionnaire responses for the current review. By Hyundai's own admission, it did not allocate the installation and supervision expenses over the prices for LPTs and spare parts for sales involving spare parts in these responses.

In this review, the record contains no information or argument that would cause us to revise our position from the previous review. Thus, we find that it is reasonable to allocate Hyundai's installation and supervision expenses over the prices of LPTs and spare parts, where applicable. In addition, because the recalculations provided by Hyundai are based on timely-submitted sales information, we find them acceptable for use in the calculation of the final margin. Finally, we do not find Petitioner's request for the application of partial facts available with an adverse inference to have merit, because Hyundai responded to all of our requests for sales information and we find it has acted to the best of its ability in providing the information. The fact that the company opted to report unallocated expenses prior to our decision in the final results of the previous review does not show a lack of cooperation. Accordingly, we will rely on Hyundai's recalculated, allocated expenses for the final results of this review.

Comment 13: Hyundai's Calculations of Indirect Selling Expenses for the Home and U.S. Markets

Petitioner's Comments

- To determine ratios for indirect selling expenses for the home and U.S. markets, Hyundai allocated the expenses into four categories – domestic, export, common, and G&A – and divided the total expenses for the first three categories by the respective sales for those categories. It then added the ratio for the common expenses to the ratio for domestic

sales and the ratio for export sales to obtain the total ratios for each market. Information examined by the Department at verification confirms that line-item indirect selling expenses assigned to the domestic and common categories were overstated, while those assigned to the export category were understated and, thus, the Department should find Hyundai's allocation of expenses to be distortive.

- Because Hyundai has failed to meet its burden of establishing an entitlement to an adjustment for home-market sales, the Department should deny the adjustment and set home-market indirect selling expenses to zero. Because Hyundai's failure should not inure to its benefit on U.S. sales, the Department should replace the value Hyundai reported for domestic indirect selling expenses for U.S. sales with the values reported for HDCP USA's indirect selling expenses incurred on those sales as partial facts available.

Hyundai's Comments

- Petitioner's claims are misplaced and nearly identical to an argument it raised in the first administrative review. The Department rejected this argument because it found Hyundai to have provided a reasonable explanation as to why indirect selling expenses may be different in home and export sales offices and it thus found the allocation methodology to be reasonable and non-distortive. Petitioner ignores that the Department examined the indirect-selling-expense-calculation methodology at verification in this review, where it found no discrepancies between information presented at verification on the classification of selling and G&A expenses and the calculation worksheet for indirect selling expenses submitted by Hyundai in its Section B response to the questionnaire.
- Contrary to Petitioner's claims, Hyundai did report building-related expenses for the export sales team – these expenses were reported in the common expenses because the domestic and export teams share space in a common building. There is no separate space where the export team incurred building-related expenses apart from the domestic sales team. Similarly, Petitioner points to no evidence to support its claims that the export sales team incurred "taxes and charges" or "membership expenses" separate and apart from the common expenses it shared with the domestic sales team.
- The reported indirect-selling-expense "allocations" were not allocations as claimed by Petitioner; Hyundai reported actual expenses by discrete cost centers that are tied to the respective teams.

Department's Position

This issue was raised and addressed in the previous administrative review, at which time we found that Hyundai had provided a reasonable explanation as to why indirect selling expenses may be different in home and export sales offices. In that review, we found its allocation methodology to be reasonable and non-distortive.¹⁸⁶ We added that, as a result, the Department

¹⁸⁶ See *LPTs 2012-2013 Final Results* and accompanying Issue and Decision Memorandum at Comment 20.

could not apply facts available based on Petitioner's speculative interpretation of how the indirect selling expenses had been reported.¹⁸⁷

Hyundai did not change its allocation method for reporting the indirect selling expenses for this review. Further, at the combined sales and cost verification for this review, we selected for examination some of the cost accounts of expenses that Hyundai attributed to indirect selling expenses and found there to be no discrepancies in the categorization of the costs.¹⁸⁸ Perhaps more clarifying of the issue raised is Hyundai's description of the expenses in its Section B Response, as follows:

HHI is able to use cost centers to distinguish among three categories of indirect selling expenses: domestic, export, and common. Thus, for example, the expenses recorded in a cost center that is associated with a stand-alone domestic sales office with no export or common function have been categorized as "domestic" selling expenses in the calculation of the indirect selling expense ratios.

Hyundai's Section B Response at B-48.

Further, using this methodology it is possible to have cost accounts from which costs are assigned to domestic and common expenses but not to export expenses. In those instances, it is not that costs have not been attributed to export sales activities but that costs have not been incurred that are exclusive to those activities. As noted by the Petitioner, the ratio for common expenses was added to the ratio for domestic sales and the ratio for export sales to obtain the total ratios for each market; in other words, the common expenses were allocated to each market based on the total sales value for domestic and export sales.

Thus, based on the record of the current review, we find the allocation of such expenses to be reasonable and not distortive for Hyundai's reporting of its domestic indirect selling expenses. In particular, we find no information to support the assertion that Hyundai's methodology results in the overstatement of domestic and common expenses and the understatement of export expenses. For these reasons, we will accept Hyundai's reported expenses for purposes of the final results of review.

Comment 14: Hyundai's Failure to Provide Audited 2013 Financial Statements for Hyundai Corporation (Korea)

Petitioner's Comments

- Despite requests from the Department, Hyundai failed to submit a copy of the 2013 audited, consolidated financial statements of Hyundai Corporation (Korea) (HDCP Korea). At verification, Hyundai officials explained that they did not have access to HDCP Korea's reports and that this company was not involved in HHI's sales process during the period of review.

¹⁸⁷ *Id.*

¹⁸⁸ See Hyundai's Verification Report at 42.

- Hyundai's comments should be dismissed by the Department because the record demonstrates that HHI does have access to HDCP Korea's 2013 audited, consolidated financial statements because it filed other financial statements of HDCP Korea on the record of this review. It is unclear why HHI's status as an affiliate would allow it to obtain certain financial statements of HDCP Korea but not others. Furthermore, Hyundai was obligated to file these statements regardless of whether HDCP Korea wanted to withhold them.
- HDCP Korea is the parent of HDCP USA and, therefore, relevant to this review in terms of determining if there were any financial issues that had an impact on the reported U.S. sales. The failure of HDCP Korea and HHI to submit the missing financial statements for the record constitutes a failure of Hyundai to cooperate to the best of its ability with the Department's request and, as a result, the Department should not rely on any of the expenses reported by HDCP USA and should apply adverse facts available for the expenses.

Hyundai's Comments

- In response to a supplemental questionnaire, Hyundai submitted the consolidated financial statements for 2013 and 2014 for HDCP Korea, which contain the audited figures for both years.
- HDCP Korea itself had no involvement in the sale of LPTs during the POR. Unlike the original investigation and the first administrative review of the proceeding, all U.S. sales were sales from HHI to HDCP USA to the U.S. customer without the involvement of another affiliate. Given this situation, it is not surprising the Department did not ask Hyundai to reconcile its data to HDCP Korea's financial statement but, if it had done so, the audited financial statements covering 2013 were on record.

Department's Position

Petitioner raised the issue of missing audited financial statements for HDCP Korea in its July 10, 2015, pre-verification comments. Department officials asked about these statements at verification, and HHI officials explained that they did not have access to HDCP Korea's reports as it is an affiliate of HHI but not a subsidiary of the company.¹⁸⁹ In addition, they clarified that, although HDCP Korea had been involved in HHI's sales process of LPTs at the beginning of the antidumping duty proceeding, it had not been involved during the current administrative review.¹⁹⁰

Hyundai further clarified in its comments that it had in fact obtained access to HDCP Korea's consolidated financial statements for 2013 and 2014 and had placed the reports on the record in a May 22, 2015 response to a supplemental questionnaire.¹⁹¹ Thus, Hyundai had complied with

¹⁸⁹ See *id.* at 5.

¹⁹⁰ *Id.*

¹⁹¹ See Hyundai's DIFMER supplemental questionnaire response, dated May 22, 2015, exhibit SD-17.

the Department's request for the financial statements two months prior to verification. Application of adverse facts available for expenses reported by HDCP USA is therefore unwarranted.

The Department observes that a review of Hyundai's filings and the information provided at verification revealed no indications of HDCP Korea's involvement in the sales process for the current review. Further, HHI officials confirmed the lack of involvement at verification while acknowledging that there had been a change in its sales process from earlier segments in the proceeding. Based on this record, the basis for Petitioner's request for the additional financial information is unclear.

Comment 15: Application of Adverse Facts Available to Hyundai

Petitioner's Comments

- The record supports the application of total adverse facts available to Hyundai because it is impossible for the Department to calculate an accurate dumping margin based on the record created by Hyundai. Based on documents collected at verification, it is clear that Hyundai overstated every gross unit price it reported in its U.S. sales listing by including revenues from services in the prices. Hyundai failed to provide the necessary information on the record for the Department to determine the amount by which gross unit price is overstated for each sale. The record demonstrates a systematic misreporting of data that had the effect of overstating gross unit price for U.S. sales, lowering adjustments to CEP sales, increasing adjustments to home-market sales, and understating the dumping margin on the review-period sales.
- Because the errors in Hyundai's reporting were only discovered as a result of verification, it is impossible for the Department to correct those errors at this point. Necessary information is not available on the record for the Department to calculate an accurate dumping margin. Hyundai withheld required information and failed to timely provide information in the form and manner requested. Hyundai was also unable to document certain adjustments to home-market sales at verification and, as a result, those elements of the response could not be verified. Finally, given the number of reporting errors and the nature of those errors, the Department should find that Hyundai significantly impeded the proceeding. For these reasons, the Department should base the final results for Hyundai on the facts available.
- The Department has both the legal authority and a sufficient factual basis to apply total adverse facts available to Hyundai. The assignment of total adverse facts available is necessary to ensure that Hyundai does not engage in such behavior again and that it provides more careful, complete and accurate responses in the future. If the Department elects otherwise, it should, at a minimum, apply partial facts available. Petitioner has provided reasonable suggestions in its case brief for the application of appropriate partial adverse facts available to address each of the deficiencies identified in Hyundai's data and any application of partial adverse facts available should be made consistent with those suggestions.

Hyundai's Comments

- Hyundai did not comment on this issue.

Department's Position

Based on our analysis of the comments filed for the final results of this review, we find no basis for the application of total facts available for purposes of determining Hyundai's dumping margin. None of the criteria under section 776(a) of the Act have been met. Specifically, we cannot conclude that necessary information is not available on the record, nor can we find that Hyundai withheld information requested by the Department, that it failed to provide such information in the form or manner requested, that it acted to significantly impede the proceeding, or that it provided requested information that could not be verified. As discussed in response to the other comments filed for these final results, Hyundai has complied with all of our requests for information, and the necessary information requested by the Department and provided by Hyundai is sufficient to determine Hyundai's final dumping margin for this review period. In our examination of the record, we have not found that Hyundai withheld information requested by the Department in a questionnaire or at verification or that it failed to provide the information in a timely form and manner. We have not found that Hyundai acted at any time to significantly impede the proceeding or that it provided requested information that could not be verified. Indeed, as a result of a combined sales and cost verification of Hyundai's information, the Department had only two minor observations about Hyundai's G&A and financial expense ratios and the U.S. bank charge that Hyundai overstated against its own interest.¹⁹² At the beginning of verification, Hyundai presented a series of minor corrections that can be classified as very minor adjustments to various items of sales information and that were verified with the examination of supporting documentation throughout the verification.¹⁹³

Because none of the threshold criteria of section 776(a) have been met, we find there is no basis to apply total or partial facts available with respect to the necessary information requested by the Department and provided by Hyundai.

Comment 16: Hyundai's Reporting of U.S. Credit Expenses

Petitioner's Comments

- Hyundai understated its reported U.S. credit expenses by calculating the number of days that credit was outstanding as the number of days between the date of entry of the merchandise and the date of payment for it. For its home market credit expenses, however, Hyundai calculated these expenses based upon the period between the date of shipment and the date of payment. Hyundai's claim that using entry date in its calculations because the LPTs are not stored in inventory before shipment to the U.S. customer is at odds with the Department's explicit instructions to calculate the expenses for the period between the date of shipment to the customer and the date of payment.

¹⁹² See Hyundai's Verification Report at 2.

¹⁹³ *Id.* at 3-4.

- The Department could recalculate the credit expenses using shipment date instead of entry date or, because it should not have to be correcting Hyundai's responses at this stage in the proceeding, the Department should more appropriately assign each sale the highest credit-expense value reported by Hyundai.

Hyundai's Comments

- If the Department accepted Petitioner's claims, the proposed methodology would cause an overlap in the inventory-carrying period and the credit-expense period, which would result in a double-counting of expenses during the overlapping period.
- The company correctly reported U.S. credit expenses because the Department's questionnaire instructed it to calculate domestic inventory carrying costs for CEP sales to cover the period from the time of final production to the time of arrival in the United States, and based on these instructions, Hyundai calculated credit expenses from the time of entry until the receipt of payment. Also, as Hyundai explained in its Section C response, LPTs are shipped from the port to the U.S. customer directly and do not enter into inventory in the United States. Thus, the company used the entry date as the shipment date for purposes of calculating U.S. credit expenses.

Department's Position

In the antidumping duty questionnaire we issued to respondents on December 1, 2014, we specifically instructed parties on the period for which to calculate domestic inventory carrying costs and inventory carrying costs incurred in the United States for CEP sales. For domestic inventory carrying costs, this period covered from the time of final production to the time of arrival in the United States, and for U.S. inventory carrying costs, the period covered from the time of arrival in the United States until the time of shipment from the warehouse or other intermediate location in the United States to the first unaffiliated customer.¹⁹⁴ In the case of credit expenses, we instructed respondents, for both export-price and CEP sales, to calculate their costs using the number of days between date of shipment to the customer and the date of payment.¹⁹⁵

In light of our instructions for the reporting of inventory carrying costs for CEP sales and because Hyundai did not place LPTs in inventory in the United States but shipped them directly to the U.S. customer from its production facility, the company selected the entry date of the LPTs as the beginning date on which to base its calculation of credit expenses. Petitioner argues that Hyundai should have selected shipment date from the production facility instead, in keeping with the instructions for the reporting of credit expenses.

In *Mittal Steel Point Lisas Ltd. v. United States*, 491 F.Supp.2d 1222 (CIT 2007) (*Mittal Steel Point I*), the Court of International Trade reviewed the issue of when the period for calculation of credit expenses should commence and found that the Department should be guided by the date of sale, as these expenses are costs associated with money being owed to the seller after it has

¹⁹⁴ See Antidumping Duty Questionnaire, dated December 1, 2014, C-34-C-35.

¹⁹⁵ *Id.* at C-30.

sold its merchandise to the customer but has not been paid.¹⁹⁶ The Court subsequently affirmed the Department's remand results, in which the Department recalculated credit expenses beginning with the invoice date, which occurred after shipment date but which was the date at which the record established the materials terms of sale had been agreed upon by the parties.¹⁹⁷ This decision was confirmed by the Court of Appeals of the Federal Circuit in *Mittal Steel Point Lisas Ltd. v. United States*, 548 F.3d 1375 (Fed. Cir. 2008) (*Mittal Steel Point 3*), which also commented that “{c}redit expenses are the costs associated with carrying accounts receivable on the books and the expenses related to extending credit to purchasers for the interim between shipment and payment.”¹⁹⁸

In the current review, the date of sale has been determined to be initial purchase order date, which falls before production or shipment of the LPTs. Thus, date of sale in this review is not the most appropriate guide, as it does not reflect the date on which costs associated with money being owed to the seller are being incurred by Hyundai. LPTs were not yet entered in Hyundai's books as an accounts receivable item by the initial purchase order date. However, Hyundai has stated that HDCP USA does not invoice the first unaffiliated U.S. customer until around the time of the date of delivery of the merchandise in accordance with the contractual terms of delivery.¹⁹⁹ By this date, production and shipment of the LPTs have been completed and HHI has invoiced HDCP USA.²⁰⁰ Thus, we cannot find invoice date to be an indicator for the beginning of the credit-expense period because it comes late in the process in this case and therefore does not fully reflect the credit expense incurred by Hyundai. We find that credit expenses are related to extending credit to the purchasers for the interim between shipment and payment because, by the time the LPTs are shipped, Hyundai has incurred its costs related to the sale and production of the LPTs (*i.e.*, money is being owed to the seller), and the LPTs are no longer in inventory at HHI and will not be held in inventory by HDCP USA.

For the reasons above, we conclude that the shipment date is the most appropriate beginning date for use in the calculation of credit expenses, and we will thus recalculate Hyundai's credit expenses (and domestic inventory carrying costs) using this date for the final results of review.

We do not find the adjustment from entry date to shipment date to provide a basis to apply partial adverse facts available to Hyundai's credit expenses. In following the more precise questionnaire instructions for the reporting of inventory carrying costs for CEP sales, the company acted to the best of its ability to comply with our request to report both inventory carrying costs and credit expenses.

¹⁹⁶ *Mittal Steel Point 1* at 1230.

¹⁹⁷ *Mittal Steel Point 2 Lisas Ltd. v. United States*, 502 F.Supp.2d 1345 (CIT 2007).

¹⁹⁸ *Mittal Steel Point 3* at 1384 quoting *AIMCOR v. United States*, 141 F.3d 1098, 1111, n. 21 (Fed.Cir. 1998)

¹⁹⁹ Hyundai's response to Section A of the questionnaire, dated December 22, 2014 (Section A Response), A-25.

²⁰⁰ *Id.* Hyundai notes here that HHI issues its invoice “around the time of shipment”.

Comment 17: Hyundai's Reporting of Bank Charges Incurred on its U.S. Sales

Petitioner's Comments

- Hyundai incurred and reported bank charges on each sale to HDCP USA but refused to provide supporting documentation for this expense at verification, explaining it was too burdensome to provide the information. Reporting the wrong values in the hope that the company would not be verified or that the verifier would not focus on this issue was not the appropriate action and indicates that Hyundai has not fully cooperated with the Department's request for information for this item. Hyundai's claim that it is too burdensome to collect information on the actual expenses should be rejected because it has all of the necessary information on the charges it incurred on its U.S. sales and chose to report the wrong values in the database field for bank charges.
- Failing to provide any adjustment for bank charges for the final results, as the Department did in the preliminary results of review, is to Hyundai's benefit. Lacking other accurate information on the charges, the Department should rely on the highest value for bank charges reported by Hyosung in this review and assign it as partial adverse facts available as bank charges for each of Hyundai's U.S. sales.

Hyundai's Comments

- Despite the fact that Hyundai applied a conservative approach in reporting U.S. bank charges and overstated them, Petitioner demands the application of adverse facts available to the expenses. Hyundai provided information, including sales documentation, in its questionnaire responses that confirmed HHI incurred a bank charge for incoming bank wires from HDCP. Petitioner selectively quoted from the verification report, which stated that HHI incurred a bank fee each time it received a payment from HDCP USA which, for reporting purposes, Hyundai estimated because each transfer covered many sales and it would be too burdensome for HHI to allocate the bank charges by project or sale.
- The record demonstrates that, if HHI had allocated its reported bank charges over each sale covered by the bank wires, the reported bank charges would have decreased for the documented sales. Thus, HHI's reporting of these expenses is already adverse.

Department's Position

In its Section C Response, Hyundai stated that HHI incurred bank charges each time it received payment from HDCP USA and that it reported these fees in its U.S. sales database.²⁰¹ It further stated that it had indicated in an additional database field that the expenses were "actual" because the fees had been incurred by HHI.²⁰² At verification, the Department obtained the following information on the charges:

²⁰¹ See Hyundai's Section C Response at C-50.

²⁰² *Id.*

In the course of reviewing the U.S. sales traces, we asked the officials about the reported bank charge incurred on each sale. They stated that HHI incurs a bank fee each time it receives a payment from HDCP USA which, for reporting purposes, they estimated They added that, because each bank transfer covers many sales, it was too burdensome for HHI to allocate the bank charges by project or sale and, thus, it had provided an estimated amount. The officials provided no supporting documentation for this expense.

Hyundai's Verification Report at 20-21. Despite the officials' decision, the bank charges do appear in payment documentation, submitted in Hyundai's May 13, 2015, supplemental questionnaire response (attachments SS-13 and SS-15), and in sales-trace documentation reviewed at verification. The bank charge is the same, standard amount in all documentation.

Thus, the record establishes that HHI did incur bank charges on its sales to HDCP USA. However, Hyundai declined to allocate each charge over the sales covered by the payment on which the charge was incurred on the basis that it was too burdensome. We did not make an adjustment to CEP for the bank charges in our preliminary results of review but this was in error. Accordingly, we will deduct the bank charges from CEP in the final margin calculations. In addition, because these charges were reported by Hyundai and verified through the sales trace documentation, we find no basis to resort to facts otherwise available.

Comment 18: Hyundai's Reporting of U.S. Brokerage Expenses

Petitioner's Comments

- Hyundai withheld the actual amounts of its U.S. brokerage expenses during verification, as established by documents presented at verification. Because Hyundai withheld these amounts for the majority of verified sales, the Department should apply partial adverse facts available for this expense to all of Hyundai's U.S. sales by relying on the highest brokerage-expense amount that Hyundai reported for any sale.

Hyundai's Comments

- Petitioner assumes that the U.S. brokerage expenses reported by Hyundai were estimated and not actual and, consequently, it declared that Hyundai withheld actual U.S. brokerage expenses. Yet Petitioner cannot cite to a single instance where Hyundai did not accurately report the expenses.
- Petitioner asserts that Hyundai reported its brokerage expenses for some sales based on the company's pre-payment of the expenses pursuant to estimates provided by the vendor and that the vendor necessarily charged a different amount from that prepaid by Hyundai. Although Petitioner's first premise has support in the record, its second premise does not. Lacking any evidence that Hyundai necessarily incurs expenses in an amount different from what it prepaids, Petitioner's conclusion is untenable.

- The record evidence demonstrates that, when the vendor charged a different amount from the prepaid amount, Hyundai reported the U.S. brokerage expenses based on the final amount.
- Petitioner's unsupported speculation is not a valid basis for a finding that Hyundai withheld information from the Department or for the application of adverse facts available.

Department's Position

In its Section C Response, Hyundai stated that it had reported the transaction-specific brokerage and handling fees incurred on each sale in its U.S. sales database and that, in an additional field, it had reported "actual" to indicate that the expenses had been incurred by the company by the time of the filing of its questionnaire response.²⁰³ Hyundai also stated more generally that, for certain shipments, it had not yet been invoiced for all selling expenses and that, in these instances, it had reported estimates based on the budgeted amount for the expense.²⁰⁴ Thus, it seems clear from Hyundai's response that, when expenses had already been incurred and were no longer budgeted as anticipated future expenses (*e.g.*, expenses related to the installation of an LPT that had not yet occurred), they were reported as "actual" expenses. Hyundai does not appear to have been distinguishing actual expenses it incurred and paid from estimated expenses it had prepaid on future activities. Therefore, we cannot agree with Petitioner's reading of Hyundai's response in this respect.

The record also contains supporting documentation for the claimed expenses.²⁰⁵ Based on our review of this documentation, it seems reasonable for some of the fees to be subject to change (*e.g.*, additional fees due to unexpected delays at the dock), but there was no indication that expenses were later revised and went unreported by Hyundai. Statements or invoices for the claimed expenses were supported by corresponding payment documentation. Moreover, given the large size and weight of the LPTs, it seems more than reasonable to assume that it is in the interest of Hyundai's vendors to provide estimates for handling and wharfage expenses that are as accurate as possible and not subject to later revision. Thus, notwithstanding Petitioner's speculation, we find no basis to presume or conclude that Hyundai failed to report revised brokerage and handling expenses to the Department.

For the same reasons, we cannot find that Hyundai failed to provide requested information for these expenses or that it did not cooperate to the best of its ability in providing the requested information. Accordingly, we find no basis to assign partial adverse facts available to Hyundai's sales for U.S. brokerage and handling expenses, as requested by the Petitioner. We will continue to rely on Hyundai's reported expenses for the final margin calculations.

²⁰³ Hyundai's Section C Response at C-37-37.

²⁰⁴ *Id.* at C-6.

²⁰⁵ See Hyundai's Response to Section C at C-11 and Hyundai's Verification Report at exhibits SVE-12 and 14.

Comment 19: Hyundai's Reporting of U.S. Inland Freight Expenses for U.S. Sales that Included Spare Parts

Petitioner's Comments

- Documents obtained by the Department at verification show that Hyundai consistently understated its reported U.S. inland freight expenses by improperly shifting freight expenses from LPTs to the spare parts for those U.S. sales that included spare parts. To correct this reporting, the Department should increase U.S. inland freight expenses for the sales based on a revised allocation of the expenses.

Hyundai's Comments

- The fundamental fallacy of Petitioner's argument is the assumption that certain freight invoices apply only to LPTs and that others apply only to parts. The descriptions on the freight invoices alone are not sufficient to conclude that the services were incurred on LPTs and not on spare parts. Based on the available documentation, Hyundai reasonably allocated U.S. inland freight expenses between LPTs and spare parts.

Department's Position

Based on our review of the record, we cannot agree with Hyundai's assertion that the U.S. inland freight invoices are too non-specific to attribute expenses to the movement of LPTs alone. At verification, we reviewed the sales-trace documentation of four U.S. sales and, in each case, it is clear to see that some of the freight invoices or, in the case of one sale, line-item charges of the invoice pertain solely to the movement of the main transformer unit.²⁰⁶ In fact, this was confirmed by Hyundai prior to verification, when it identified the charges listed on one of these invoices in its June 3, 2015, supplemental questionnaire response. It is clear from Hyundai's response that all of the charges in the invoice related to the movement of the main transformer unit.²⁰⁷

But the other freight invoices and, in the case of one sale, the remaining line items on the invoice, pertain to the expenses related to the movement of the parts or "accessories" of the LPT, some of which are necessary parts and some of which are spare parts. These parts are packaged and transported together from the production facility, whether or not the main transformer unit is transported with them. Consequently, they are not weighed separately, and there is no information on the record that would permit separation of the freight expenses incurred on the necessary parts from those incurred on the spare parts. Thus, the only basis for allocation of the expenses is sales value, and for this reason, Hyundai combined all U.S. inland freight expenses incurred on the LPTs and their parts for each sale and then allocated them over the total sales value of the LPTs and the spare parts for each sale. Therefore, we find that Hyundai correctly reported the U.S. inland freight expenses for each sale that included sales of spare parts and that these expenses require no adjustment for the final margin calculations.

²⁰⁶ See Hyundai's Verification Report at exhibits SVE-12 through SVE-15.

²⁰⁷ See Hyundai's supplemental questionnaire response, dated June 3, 2015, 21.

Comment 20: Hyundai's Reporting of its U.S. Supervision Costs

Petitioner's Comments

- The record confirms that Hyundai understated its reported supervision expenses incurred by HHI on U.S. sales, and there is no evidence that these expenses have been accounted for elsewhere on the record. For the final results, the Department should increase the reported supervision costs for sales which incurred such costs by the highest percentage of unreported supervision costs for an individual sale as facts available. Alternatively, the Department should assign the highest adjusted supervision costs to all U.S. sales as adverse facts available.

Hyundai's Comments

- Hyundai treats the supervision expenses, which it considers to be Korean Won-denominated selling expenses, as costs of manufacture rather than direct selling expenses, and it can demonstrate that the purportedly missing costs have been accounted for in the cost of manufacture (COM). Because these costs are recorded as manufacturing costs on a project-specific basis, Hyundai would not have been able to reconcile its reported costs unless it had fully accounted for the purportedly missing expenses. There is nothing in the Department's verification report to suggest the existence of missing supervision costs.
- The difference between Hyundai's budgeted and reported supervision costs has been captured in the COM because, for certain overhead and labor costs, there is no reasonable methodology for Hyundai to segregate the costs from COM. That Hyundai fully accounted for all costs related to the Won-denominated supervision projects can be confirmed by an examination of a cost summary worksheet that appears in the verification report.

Department's Position

We have reviewed the record and find, as asserted by Hyundai, that all supervision costs are either captured as direct, on-site costs, reported to the Department as won-denominated supervision expenses, or flow to the COM. At verification, Department officials examined both the sales-trace and cost-build-up documentation of one U.S. sale.²⁰⁸ This combined documentation establishes the attribution of total supervision costs for that sale.²⁰⁹ Moreover, as noted by the Hyundai, the total costs for all sales are recorded on a project-specific basis and thus must be fully accounted for in the cost reconciliation for any project. The record confirms that Hyundai does record its costs on a project-specific basis in the normal course of business.

Petitioner has commented on the reporting of supervision expenses for a particular U.S. sale.

²⁰⁸ See Hyundai's Verification Report at exhibits SVE-13 and DVE-9.

²⁰⁹ Specifically, the budgeted supervision expenses at 129 of SVE-13 tie to the direct selling expenses amount for supervision at 15 of DVE-9.

Due to the proprietary nature of this comment, we will address it in Hyundai's Final Analysis Memorandum.²¹⁰

We find no basis for the assignment of partial facts available or adverse facts available to Hyundai's reported Won-denominated supervision expenses. Based on a review of the record, Hyundai has fully complied and cooperated with our requests for information with respect to these expenses.

Comment 21: Verification of Amounts Reported by Hyundai for Warranty Expenses and Domestic Indirect Selling Expenses Incurred in the United States

Petitioner's Comments

- Hyundai's reported warranty and domestic indirect selling expenses incurred on certain U.S. sales could not be verified by the Department, which should assign the highest value reported for the each type of these expenses to all affected sales in the final results.

Hyundai's Comments

- Petitioner identified an insignificant error in Hyundai's calculation of U.S. warranty expenses for certain sales. Hyundai has provided the corrected amounts for these expenses in an exhibit to its brief and notes that all of the information necessary to make the corrections had already been placed on the record. As the individual corrections and the aggregate amount of the corrections are insignificant amounts, the Department has the discretion to ignore this issue in its entirety, pursuant to 19 U.S.C. § 1677f(a) and 19 CFR 351.413. An adjustment that the Department may disregard in its entirety does not warrant the application of adverse facts available.

Department's Position

We have reviewed the corrected calculations provided by Hyundai and note that they show the company made an inadvertent error in the calculation of warranty expenses, but not domestic indirect selling expenses, and then only for certain U.S. sales. The corrections are based on information previously placed on the record, and, consequently, we will accept them for use in our final margin calculations.

We will clarify for the record that, although we reviewed some aspects of the reporting of warranty and domestic indirect selling expenses at verification, we did not fully verify the calculations of these expenses, as we conducted a combined sales and cost verification of Hyundai over a period of seven business days. For this reason, we cannot agree with Petitioner's statement that the reported amounts for these expenses could not be verified; rather, these expenses simply were not verified by the Department given the time constraints of a partial sales verification.

²¹⁰ See Hyundai's Final Analysis Memorandum, 4.

Comment 22: Hyundai's Failure to Report Inventory Carrying Costs Incurred in the United States

Petitioner's Comments

- An examination of the record, including the sales-trace documents obtained at verification, show that Hyundai did incur inventory carrying costs in the United States but failed to report those costs to the Department.
- The problem with the unreported inventory carrying costs affects all U.S. sales and, as the Department does not have information on the record to correct it, it should calculate U.S. inventory carrying costs (*i.e.*, the data field INVCARU) for each U.S. sale by relying on the highest reported number of inventory days used to calculate domestic inventory carrying costs (DINVCARU) for a U.S. sale.

Hyundai's Comments

- The company correctly reported U.S. inventory carrying costs when it followed the instructions in the antidumping duty questionnaire to report domestic inventory carrying costs until the entry date of the goods into the United States. Because its LPTs are shipped directly from the port in Korea to the U.S. customer, Hyundai treated the entry date as the date of shipment for purposes of calculating U.S. credit expenses, resulting in no gaps in its reporting of imputed inventory carrying costs and U.S. credit expenses.
- Despite the fact that there are no gaps in Hyundai's reporting of inventory carrying costs and credit expenses, Petitioner argues that Hyundai failed to report inventory carrying costs incurred in the United States. If Hyundai were to report U.S. inventory carrying costs, it would have to reduce its reported U.S. credit expenses by the number of days the LPTs were supposedly in inventory in the United States to avoid double-counting. Such an approach would be to Hyundai's advantage, as U.S. inventory carrying costs are based on the CEP reseller's acquisition costs, while credit expenses are based on the CEP reseller's sales price to the unaffiliated U.S. customer.
- If the Department accepts Petitioner's argument, all of the data necessary to calculate U.S. inventory carrying costs and U.S. credit expenses is on the record, including HDCP USA's acquisition costs and purchase prices for all sales.

Department's Position

In Comment 16 above, we concluded that the date Hyundai shipped the LPTs from Korea was the most appropriate date from which to begin to calculate credit expenses on U.S. sales. For this reason, we find that domestic inventory carrying costs incurred by Hyundai should cover the period from the production date of an LPT to its shipment date.²¹¹ As Hyundai was bearing the

²¹¹ A review of Hyundai's Section C Response at C-52 and Attachment C-23 establishes that, for Hyundai, production and shipment date coincide with one another. So, based on our change in the credit-expense period, Hyundai will not incur domestic inventory carrying costs in this review.

costs of extending credit to the purchaser from the shipment date onward, it could not incur inventory carrying costs on the sale of an LPT in the United States. Thus, we find Hyundai was correct in its reporting, or lack of reporting, of U.S. inventory carrying costs for its sales. We find no basis for the application of partial adverse facts available for this expense, Hyundai provided an accurate response to our request for information.

Comment 23: Issues with Specific U.S. Sales

Petitioner's Comments

- Hyundai failed to report supervision expenses for a certain sale, and the Department should assign the neutral facts available to the amount for these expenses. Hyundai also understated the reported amount of other discounts for this sale and reported the amount in the incorrect field, which the Department should correct by setting other discounts to zero, making a deduction for a U.S. direct selling expense, and recalculating U.S. credit expenses for the sale.
- The Department should correct an error in the reported control number for a certain sale because it could change the product matching.
- Hyundai submitted the wrong documentation for a certain sale and, as a result, the Department should recalculate the domestic inland trucking freight for the sale.
- Given all of the other problems with Hyundai's reporting of information identified by the Petitioner, the Department should not rely on the domestic inland freight expenses reported for certain sales.
- Given all of the other problems with Hyundai's reporting of information identified by the Petitioner, the Department should not rely on the inconsistent international freight expenses reported for certain sales.
- The Department should not rely on the marine insurance expenses reported for a certain sale.
- The reporting of inland freight expenses incurred in the United States for certain sales raises questions and, for the final results, the Department should rely on other reported inland freight expenses to be applied to these sales as adverse facts available.
- The Department should correct an error in the reported control number for another certain sale because it may influence the product match for the sale.

Hyundai's Comments

- Hyundai correctly reported supervision expenses for all U.S. sales. In addition, it correctly reported information for a certain sale concerning a discount, which the Department verified. As the Department's definition makes clear, a discount need not be

stated on the invoice and, when a buyer applies a discount, it remits only the face amount of the invoice, less discounts. The discount at issue is no different than the other types of discounts normally accepted by the Department.

- As noted in the Department’s verification report, Hyundai used “Inspection and Test Reports” to identify the maximum MVA for all sales. The fact the Department did not include this report in sales-trace documentation for a certain sale is not a basis to draw an adverse inference that Hyundai misreported maximum MVA for the LPT involved in this sale.
- Hyundai provided the correct supporting documentation for the reported domestic inland freight expenses for a certain sale; the documentation pertains to the correct project.
- Despite Petitioner’s claims concerning the reported domestic inland freight expenses for certain sales, Hyundai has demonstrated – and the Department has verified – that various factors have an impact on the expenses incurred and the categories in which they are captured. Petitioner has not cited any document in support of its argument and its reaction to any data it cannot understand is to demand adverse facts available.
- Without citing a single document in support of its argument, Petitioner demands that the Department apply adverse facts available to the international freight expenses for certain sales. The Department specifically examined the expenses for some of these sales at verification and found that a variance in reported expenses between sales was the result of the difference in freight rates obtained by different freight providers. As confirmed by the verification findings, it is not possible to conclude that there were errors in Hyundai’s reported expenses without examining relevant documentation.
- Petitioner misstates the basis on which Hyundai incurred marine insurance expenses on a certain sale by claiming that the expenses are “based on value” without acknowledging that other verified factors affect the actual insurance expenses. The verification report includes the observation that Hyundai obtained insurance on a sale-by-sale basis and the Department verified the insurance expenses for each sales trace without incident.
- With respect to the reporting of inland freight expenses incurred in the United States for certain sales, Petitioner either misstates the record or makes unreasonable comparisons. It is indisputable that Hyundai reported inland freight expenses for the sales at issue. Petitioner mischaracterizes U.S. inland freight expenses paid by HHI as “Korean inland charges.” Finally, Petitioner does not acknowledge that physically different LPTs would have different freight costs but again demands the application of adverse facts available.
- Hyundai reported maximum MVA ratings based on the test reports for LPTs and not on the documents cited by Petitioner, however, even the documents cited by Petitioner corroborate the maximum MVA rating reported by Hyundai for a certain sale. Petitioner’s inability to understand the record is not a valid basis for the application of adverse facts available.

Department's Position

With respect to Petitioner's first set of allegations, the Department examined the sale-trace documentation of the sale at issue at verification.²¹² It found no discrepancies in the reported information for supervision expenses and other discounts. Because, as discussed in comment 12 above, we find that it is reasonable for Hyundai to allocate the installation and supervision expenses over the prices of LPTs and spare parts in sales involving spare parts, we will rely on the recalculated amount of supervision expenses for this sale in the final margin calculations. As addressed above, we find no basis for the application of partial facts available to these expenses. Furthermore, we cannot agree with Petitioner's suggested changes for the expenses reported as other discounts. As we noted at verification, Hyundai informed us that the U.S. customer opted not to avail itself of the full agreed-upon amount for reasons unknown to the respondent.²¹³ The payment documentation confirms the amount received by Hyundai for the sale.²¹⁴ This documentation also establishes that the expenses at issue were deducted from the invoiced amount owed to Hyundai by the purchaser of the LPT. Further, the agreement between parties, appearing on page 116 of exhibit SVE-12 of the verification report, shows that the deduction was made pursuant to the terms of sale. We thus conclude that this adjustment was properly reported as a discount and that Hyundai's reported amount is correct.

Petitioner next asserts that the Department should correct an error in the reported control number for a certain sale. As noted in Hyundai's comments, the Department did not examine the document at verification that would have confirmed the maximum MVA rating that Hyundai reported for this sale. However, even though we conducted a combined sales and cost verification over a period of seven days (*i.e.*, three days less than we would spend on full sales and cost verifications), we examined the supporting documentation for four other sales.²¹⁵ We found no discrepancies in the product-characteristic information reported for these sales.²¹⁶ Based on these findings, we have no basis to conclude that Hyundai erroneously reported the maximum MVA rating for the sale at issue. Rather, we conclude that no correction of the rating is necessary for the final margin calculations.

Petitioner asserts that Hyundai submitted the documentation for a certain sale that does not support its reported domestic inland trucking freight expenses. We have reviewed the documentation and find that it does not support Petitioner's claim.²¹⁷ As Hyundai noted, the documentation can be tied to the sale by customer name, the project name and number, and the technical attributes of the LPT. Accordingly, we find no basis to recalculate the reported expenses, as requested by Petitioner.

Petitioner asserts that the Department should not rely on the domestic inland freight expenses reported for certain sales. A review of the listed expenses suggests to us that Hyundai incurred barge freight expenses for one sale and barge and trucking freight expenses for another sale. In

²¹² See Hyundai's Verification Report at exhibit SVE-12.

²¹³ *Id.* at 18.

²¹⁴ *Id.*, exhibit SVE-12 at 117-128.

²¹⁵ *Id.* at exhibits SVE-7 and SVE-8.

²¹⁶ *Id.* at 16 and 18.

²¹⁷ See Hyundai's supplemental questionnaire response, dated May 13, 2015, attachments SS-18, 8-11.

the event the different modes of freight transportation result in expenses that are not comparable in total amounts, the Department cannot assume that the reported amounts are unreliable information. Likewise, Petitioner's assertion that, generally speaking, there are so many other problems with Hyundai's reporting of information provides no basis for us to question the reliability of these specific inland freight amounts. Therefore, we find the use of partial adverse facts available for these expenses is unwarranted.

Petitioner asserts that Hyundai reported "inconsistent" international freight expenses for certain sales on which the Department should not rely in its final margin calculations. This issue was previously raised in Petitioner's July 10, 2015, pre-verification comments and addressed at verification, where we reviewed the supporting documentation for half of the sales cited by Petitioner and concluded that the variance in reported expenses was the result of the difference in freight rates obtained by different freight providers.²¹⁸ As Petitioner points to no alleged discrepancies in the data, we find no basis for us to question the reliability of the reported expenses for these and other sales. Petitioner's assertion about other problems with Hyundai's reporting of information does not call into question the reliability of these specific expenses since, due to our analysis of Petitioner's comments for the final results, we have found Hyundai to have responded to the Department's various requests for information to the best of its ability. Therefore, we find the application of partial adverse facts available for the expenses for some of these sales is unwarranted.

Petitioner asserts that the Department should not rely on the marine insurance expenses reported for a certain sale. At verification, HHI officials explained that marine insurance was obtained on a sale-by-sale basis and that there was no master policy in effect that covered all purchases of insurance.²¹⁹ Thus, aside from differences in the amounts of insured values of LPTs, there can be differences in the policies that account for these purported inconsistencies in the reported insurance expense amounts for different sales. These differences alone do not provide a basis to question the reliability of Hyundai's reported expenses for a certain sale, any more than Petitioner's assertion about other problems with Hyundai's reporting of information. Therefore, we find the application of partial adverse facts available for the marine insurance expenses is unwarranted.

Petitioner asserts that the reporting of inland freight expenses incurred in the United States for certain sales raises questions concerning the reported amounts. Again, such differences in the reported expenses for certain sales do not alone provide a basis for finding the reported amounts to be unreliable. Absent any indication on the record that Hyundai has reported inaccurate or incorrect expense amounts, Petitioner's request that partial adverse facts available be applied to the U.S. inland freight expenses for these sales is denied.

Finally, Petitioner asserts that the Department should correct an error in the reported control number for another certain sale because it may influence the product match for the sale. Hyundai comments that the sales-trace documentation obtained for this sale at verification

²¹⁸ See Hyundai's Verification Report at 20 and exhibit SVE-17 at 16-20.

²¹⁹ *Id.* at 21.

confirms that the correct maximum MVA rating was reported for the sale.²²⁰ Accordingly, no correction of the control number is necessary for the final margin calculations.

Comment 24: Hyundai's Reporting of Insurance and Packing Expenses for Home-Market Sales

Petitioner's Comments

- Hyundai overstated certain expenses incurred on home-market sales that involved the sale of both an LPT and spare parts, as demonstrated in verification documents. Hyundai overstated its reported insurance expenses by assigning the total expenses to the LPT without allocating a portion of them to spare parts. This problem can be seen in sales that were verified by the Department and, because it is systemic, the Department should decrease the amounts reported for insurance expenses in sales involving spare parts by the highest percentage that the value of spare parts represents of the total invoiced value of an individual sale.
- The home-market sales involving spare parts that were verified by the Department show that Hyundai also overstated its reported packing expenses for these sales by assigning the total packing expenses to the LPT, instead of allocating a portion of the packing expenses to spare parts. Hyundai's failure to allocate the home-market packing expenses is inconsistent with its reporting of U.S. packing expenses, where Hyundai did allocate between the LPT and spare parts. To correct for the overstatement of the home-market packing expenses, the Department should decrease the reported amounts for packing expenses in all sales involving spare parts by the highest percentage that the value of spare parts represents of the total invoiced value of an individual sale.

Hyundai's Comments

- Petitioner assumes that Hyundai insured spare parts for its home-market sales, but the record evidence confirms that it did not do so. Hyundai did not allocate insurance expenses to spare parts because it did not incur these expenses on the spare parts in home-market sales. The record evidence demonstrates that Hyundai only obtained insurance on LPTs sold in the home market based on a percentage of their value.
- Hyundai correctly reported its home-market packing expenses. Petitioner's argument is based on the assumptions that Hyundai incurred packing expenses for home-market sales and, to the extent that it did so, the packing expenses for all parts and the LPTs were grouped together. There is no evidence on record to support these assumptions.

Department's Position

A review of the record supports Hyundai's claims with respect to insurance expenses. In its Section B Response, Hyundai stated that it was HHI's normal practice to request inland

²²⁰ *Id.*, exhibit SVE-15 at 13.

insurance for LPTs based on the internal accounting value of the LPT, excluding installation and separately procured materials, such as oil.²²¹ At verification, we reviewed the calculation of insurance expense amounts for two home-market sales involving spare parts in their sales-trace documentation. From these documents, we can confirm Hyundai's assertion that HHI obtained insurance on LPTs sold in the home market based on a percentage of their internal accounting value for the LPTs and not their spare parts.²²² Thus, we find that it would be improper to allocate the home-market insurance expenses over the values of the LPTs and spare parts. We conclude that no adjustments should be made to the reported insurance expenses for the final margin calculations.

With respect to packing expenses, we note that, according to Hyundai, all of its terms of delivery required the LPTs to be packaged, including the "ex-work" delivery terms, which required the transformer units and all parts to be delivered at the factory on the truck.²²³ Furthermore, Hyundai explained in its Section B Response that the reported packing expenses were based on the actual unit consumption recorded in HHI's cost accounting system for a project, reflecting the standard per-unit costs for packing materials.²²⁴ A review of a calculation worksheet for the expenses incurred by Hyundai on one sale does not indicate that the packing costs were limited to materials used for packing the main transformer unit or the LPT and necessary parts.²²⁵ Finally, a review of Hyundai's description of and sample calculation worksheet for U.S. packing expenses in its Section C Response reveals no discernable differences between the information it provided in the Section B Response for home-market packing expenses.²²⁶ Based on this record, we conclude that the reported home-market expenses reflect the packing costs that Hyundai incurred on an entire project – the LPTs and any spare parts. We therefore find that these expenses should be allocated over the sales value of the LPTs and any spare parts, as Hyundai did for its reporting of U.S. packing expenses.

Because this allocation is easily made for each sale involving spare parts based on information available on the record, we find no basis for the application of partial facts available with an adverse inference to the packing expenses for these sales. As for its home-market insurance expenses, we find no basis for the application of partial adverse facts available to this adjustment for sales involving spare parts, as Hyundai fully complied and cooperated with our requests for information concerning these expenses.

Comment 25: Hyundai's Reporting of Home-Market Inland Trucking Expenses

Petitioner's Comments

- Hyundai relied on multiple inconsistent allocation methods to reports its inland trucking expenses, including allocating expenses by weight and by sales value. Given conflicting

²²¹ Hyundai's Section B Response at B-40.

²²² See Hyundai's Verification Report, exhibit SVE-10 at 31 and 74, and exhibit SVE-11 at 21 and 46.

²²² Specifically, the budgeted supervision expenses at 129 of SVE-13 tie to the direct selling expenses amount for supervision at 15 of DVE-9.

²²³ See Hyundai's Section B Response at B-29.

²²⁴ *Id.* at B-50.

²²⁵ *Id.* at exhibit B-17.

²²⁶ See Hyundai's Section C Response at 54 and exhibit C-24.

explanations and documentation placed on the record by Hyundai, the Department should conclude that it could not verify the trucking expenses.

- Information obtained at verification also demonstrates that Hyundai overstated the inland trucking expenses reported on its home-market sales. Given the inconsistency of Hyundai's reporting and the conflicts with its documentation, the Department cannot rely on these expenses for the final results and should set all such expenses to zero.

Hyundai's Comments

- Hyundai correctly reported inland freight expenses based on the available records. Where Hyundai had weight information for two LPTs, it allocated the inland freight expenses based on weight. However, in instances where Hyundai does not have records on the weights of the items (*i.e.*, the respective weights of a transformer and spare parts within a project) within a shipment, Hyundai allocated the freight expenses between the transformer and the spare part by value. Allocations were reasonably made based on the information available to Hyundai and, at verification, the Department did not identify any reported expenses that were not substantiated by Hyundai's records.
- There was no overstatement in Hyundai's inland trucking expenses. Petitioner overlooks relevant information in trucking freight requests that demonstrate that trucks went to different destinations for different sales. Petitioner's arguments are without merit and there is no basis for setting all home-market inland trucking expenses to zero.

Department's Position

A review of the record supports Hyundai's assertions that, where possible, it reported inland freight expenses on a weight basis. In its Section B response, Hyundai provided documentation for an expense that had been allocated on this basis.²²⁷ However, we examined expenses at verification that had been allocated between LPTs and spare parts based on sales value. In our verification report, we noted that, with respect to the sales-trace documentation in exhibit SVE-10, we had asked company officials to explain why the trucking freight was not allocated by weight (as opposed to sales value) and they had explained that the trucking freight requests (pages 67 and 69 of SVE-10) did not indicate the weight of the shipments.²²⁸ Upon closer review of these requests, we find that there are project codes and weight amounts shown on the requests but, as commented by Hyundai, the request only identifies the weight for the entire shipment. Thus, the record does not provide a breakdown by weight between the LPTs and spare parts. In these instances, Hyundai allocated freight expenses by sales value, which we find to be a reasonable alternative to a weight-basis allocation under these circumstances. We do not find Hyundai's reliance on this alternative allocation method to undercut the reliability of its reported data when, as here, the record demonstrates that the information necessary to allocate the data on a weight basis was not available to the company.

²²⁷ See Hyundai's Section B Response at 38-39 and exhibit B-9; Hyundai's supplemental questionnaire response, dated June 3, 2015, at 7-8.

²²⁸ See Hyundai's Verification Report at 16 and exhibit SVE-10.

Petitioner asserts that Hyundai overstated inland trucking expenses on its home-market sales, as evidenced by the sales-trace documentation in exhibit SVE-10. We have reviewed the documentation pertaining to the trucking expenses and, because the documents tie to one another by project number or request number, we conclude, as we did at verification, that the expenses were incurred on and correctly reported for this sale.²²⁹ Petitioner also cites to the trucking expenses reported for two other sales, for which the Department examined the expense amounts at verification in response to Petitioner's July 10, 2015, pre-verification comments. At verification, we found no discrepancies between the supporting documentation and the reported amounts.²³⁰ Additional review of the trucking freight requests confirms Hyundai's comments that these two documents establish that, for one sale, freight expense was incurred for trucking to a nearby port, while, for the other sale, the expense was incurred for trucking components of the LPT to the customer's site on the other side of Korea.²³¹

Based on these findings, we conclude that the record does not support Petitioner's assertion that Hyundai overstated its inland trucking expenses. For this reason, and because we do not find Hyundai's allocation methods to have resulted in unreliable data, we will continue to use Hyundai's reported inland freight expenses for home-market sales in our final margin calculations. We find no justifiable basis to adjust these expenses to zero as requested by Petitioner.

Comment 26: Hyundai's Reporting Home Market Insurance Expenses

Petitioner's Comments

- Information gathered at verification shows that Hyundai inaccurately reported its home-market insurance expenses. The burden is on Hyundai to demonstrate its entitlement to adjust normal value for insurance expenses and the problems identified in information reviewed at verification indicate that Hyundai has not met that burden. As a result, the Department should deny an adjustment for insurance expenses.

Hyundai's Comments

- Hyundai correctly reported its home-market insurance expenses, as can be seen on an insurance contract reviewed by the Department at verification. In addition to noting the project numbers, the contract includes a description of the LPTs covered by the contract. From Petitioner's assertions, it is as if the Department never obtained a copy of the contract, which disproves each of Petitioner's accusations.

Department's Position

Petitioner filed extensive pre-verification comments with the Department on July 10, 2015. In an effort to address a comment concerning the reporting of home-market insurance expenses on certain sales, Department officials reviewed supporting documentation for the expenses at

²²⁹ See *Id.*, exhibit SVE-10 at 67-70.

²³⁰ See *Id.* at 16-17 and exhibit SVE-17

²³¹ See *Id.*, exhibit SVE-17 at 7 and 12.

verification and found that they had been incurred to cover barge transportation.²³² We found no discrepancies in the calculation or reporting of the expenses.

As noted by Hyundai in its comments, the insurance contract in question lists the numbers of the projects (*i.e.*, sales of LPTs) for which the insurance coverage was obtained, although these numbers are listed in two separate areas on the form. The contract also identifies all of the LPTs covered by description and quantity. Based on this documentation, we remain satisfied with the reporting of the sale-specific insurance expenses. Accordingly, we find no basis to deny the claimed amounts in the final margin calculations.

Comment 27: Hyundai's Reporting of Other Direct Selling Expenses

Petitioner's Comments

- An examination of the record shows that Hyundai overstated the other direct selling expenses it reported as incurred on contract guarantee fees and warranty guarantee fees. The claimed expenses are not valid direct selling expenses because they were not expenses that bore a direct relationship to a sale in question (*i.e.*, incurred by Hyundai for the benefit of its customer). The Department should find that Hyundai has not met its burden of demonstrating its entitlement to adjust for this expense under 19 CFR 351.410(c) as a direct selling expense and, as a result, the Department should deny the adjustment for all home-market sales.

Hyundai's Comments

- After proffering a string of suppositions about this expense, Petitioner concludes that it was not incurred by Hyundai for the benefit of its customer. Petitioner claims that the contract guarantee is a type of insurance to protect HHI in the event that its home-market customer fails to fulfill its advanced payment commitment but the record shows that HHI had already received payment in hand and had no need to be insured in case the customer did not pay. If Petitioner examined certain documents, it would have noticed that HHI's customer was the beneficiary of the guarantee, rather than HHI.

Department's Position

In its Section B Response, Hyundai states:

In the home market, certain customers require HHI to procure guarantees, which are similar to a type of insurance, to protect the customer in the event that HHI fails to fulfil its contractual or warranty obligations. For example, if HHI fails to provide the transformer, the buyer may make a claim to the guarantee company for compensation. The period for the contract guarantee is the same as the period for HHI to fulfil its contractual obligations and the warrantee guarantee period is the same as the warranty period under the purchase contract for the transformer.

²³² See Hyundai's Verification Report at 16-17 and exhibit SVE-17 at 1-4.

Section B Response at B-46 and B-47. We examined documentation relating to contract and warranty guarantees when we reviewed sales traces at verification. At that time, company officials confirmed to us that certain home-market customers required HHI to obtain a contract guarantee, a warranty guarantee or both as part of entering into a sales agreement.²³³ We reviewed the calculation of guarantee expenses in the minor corrections presented at verification, as well as supporting documentation of the expenses in three sales traces.²³⁴ The Department found no discrepancies in the calculations and information it reviewed at that time.

Petitioner argues that contract guarantee expenses were overstated by Hyundai because Petitioner has decided – apart from the information placed on the record – that Hyundai, and not its customer, was the beneficiary of the guarantee, that the guarantee was intended to cover breach of contract on the part of the customer (*i.e.*, in the event the customer failed to pay), rather than Hyundai, and that since the guarantee offered no benefit to the customer, the guarantee expenses could not be considered direct selling expenses under 19 CFR 351.410(c). The record, however, shows otherwise. Further, company officials confirmed at verification that HHI incurred contract and warranty guarantee expenses as a result of entering into sales agreements with particular home-market customers. As such, we find these expenses to qualify as direct selling expenses, pursuant to 19 CFR 351.410(c) and accordingly have allowed the adjustment.

Comment 28: Hyundai’s Reporting of Actual Packing Expenses

Petitioner’s Comments

- At verification, Hyundai failed to report actual packing expenses for some of its home-market sales when those values were available to it. As a result, the Department should set the packing expenses to zero for those sales.

Hyundai’s Comments

- Petitioner does not point to any record evidence to support its position that the actual packing expenses were available to Hyundai; the record evidence only shows that all LPTs are packed and incur packing expenses. Hyundai explained at verification that the final packing expenses were never entered in HHI’s accounting system for certain sales. Nevertheless, Hyundai reported expenses for these LPTs reasonably, by using records actually available to it. Hyundai notes that the amount of the reported packing expenses for these sales constitute an insignificant percentage of the gross unit price.

Department’s Position

In its Section B Response, Hyundai stated that its reported home-market packing expenses tied directly to HHI’s accounting system and that they were based on the actual unit consumption recorded in HHI’s cost accounting system for each project, reflecting the standard per-unit costs

²³³ See Hyundai’s Verification Report at 15.

²³⁴ *Id.* at exhibits SVE-2 and SVE-9-SVE11.

for materials.²³⁵ Hyundai noted that it adjusts these amounts to reflect the variance in the aggregate standard costs and the aggregate actual consumption value.²³⁶ Hyundai clarified that it had added a field in its home-market sales database in which it had indicated whether the reported packing expenses were actual or estimated.²³⁷

At verification, we asked the company officials to explain why estimated, as opposed to actual, packing expenses had been reported for some home-market sales. In response, they stated that, although the packing expenses are finalized after shipment (as opposed to installation) of the LPTs, the final packing expenses were never entered into the accounting system for the sales in question.²³⁸ In each case, the officials attributed to it to inadvertent error and explained that, because the expenses were never finalized, the estimated expenses remained in the system and were thus carried over to the U.S. sales database as the reported packing expenses.²³⁹

Under these factual circumstances, we conclude that Hyundai acted in a reasonable manner with respect to reporting estimated packing expenses for certain sales. The instances in which the expenses were not finalized in the system affects a relatively small number of reported sales. Further, when the expenses were not finalized, Hyundai reported the best information it had available – the estimated expenses based on the standard per-unit costs for the materials used for the project and adjusted to reflect the actual consumption value of the materials. Finally, whether the expenses were not finalized due to inadvertent error, we recognize that in some cases actual costs went unreported by HHI because they were not available to company officials at the time of the verification. Therefore, we find the estimated expenses as reported for these sales to be acceptable for use in the final margin calculations and find no basis to assign zero to the packing expenses for each of these sales.

Comment 29: Hyundai's Reporting of Warranty Guarantee Expenses

Petitioner's Comments

- Hyundai has not demonstrated its entitlement to an adjustment for warranty guarantee expenses on certain sales because it failed to report the actual incurred expenses.

Hyundai's Comments

- Petitioner's argument demonstrates a fundamental misunderstanding of warranty guarantee fees. In its Section B Response, Hyundai explained that the warranty guarantee period is the same as the warranty period under the purchase contract for the transformer. Rather than considering the actual workings of the warranty, which apply from the time the LPTs are installed and in operation, Petitioner looks only at shipment date and offers no theory as to why Hyundai should pay for a warranty guarantee before it was necessary.

²³⁵ See Hyundai's Section B Response at B-50.

²³⁶ *Id.*

²³⁷ *Id.* at B-51.

²³⁸ See Hyundai's Verification Report at 16.

²³⁹ *Id.*

- The record shows that there may be long time differences between shipment of an LPT and when Hyundai incurs the final warranty guarantee fee for a sale. In such instances, Hyundai reported estimated warranty guarantee expenses. In addition, the Department set a cut-off date of December 31, 2014, in its antidumping duty questionnaire for the reporting of actual expenses. Petitioner appears to be relying on Hyundai's initial home-market sales listing, which reflected actual expenses incurred only through November 2014, as the accounting records for the following month were not available at the time Hyundai compiled the listing.

Department's Position

As noted in Hyundai's comments, it stated on the record that the warranty guarantee period is the same as the warranty period under the purchase contract for the transformer in its home-market sales.²⁴⁰ Further, we examined the supporting documentation for a claimed warranty guarantee expense within the context of a sale trace at verification. This documentation shows that the warranty guarantee period is listed on the warranty guarantee invoices and certificates.²⁴¹ The documentation also shows that, for this one sale, the expenses at issue were incurred before or just after shipment of the LPTs.²⁴² We found no discrepancies in the information on guarantee expenses reviewed at verification.

Petitioner argues that Hyundai is not entitled to an adjustment for warranty guarantee fees because it has reported estimated expenses, instead of actual expenses, for some sales. Hyundai has responded that, because warranty guarantee fees may not be incurred until the warranty period commences for an LPT, it properly reported estimated expenses for some sales. As noted by Hyundai, we instructed respondents in this review to report actual expenses incurred through December 31, 2014, if available.²⁴³ In light of these circumstances, we find Hyundai's reporting of the estimated expenses to be reasonable, as the warranty period for certain home-market sales extends beyond the period of review or the cut-off date of December 31, 2014. Accordingly, we have allowed Hyundai's adjustment for warranty guarantee expenses in our final margin calculations.

Comment 30: Correction to Hyundai's Liquidation Instructions

Petitioner's Comments

- For the final results, the Department should issue liquidation instructions that properly assign the dumping liability for Hyundai.

Hyundai's Comments

- Hyundai did not comment on this issue.

²⁴⁰ Hyundai's Section B Response at B-47.

²⁴¹ See Hyundai's Verification Report, exhibit SVE-9 at 34-39.

²⁴² *Id.*

²⁴³ See Antidumping Duty Questionnaire, dated December 1, 2014, B-1.

Department's Position

We have reviewed the draft liquidation instructions for Hyundai that we released with the preliminary results of review and agree with Petitioner that an inadvertent error was made with respect to the amount of dumping liabilities listed for HHI and HDCEP. For the final results, we have revised these amounts to reflect the correct per-unit assessment rates for each company.

VI. Recommendation

Based on our analysis of the comments received, we recommend adopting the positions set forth above. If these recommendations are accepted, we will publish the final results of review, including the final dumping margins, for all companies subject to this administrative review in the *Federal Register*.

Agree ✓ Disagree _____

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

8 MARCH 2016
Date