it was submitted, because the team verified the actual prices paid on home market sales.

Petitioner argues that the Department should deny Carmiel the adjustment because the information was submitted after the deadline for submission of factual information. Petitioner notes that Carmiel chose not to report this information on a timely basis.

# DOC Position

We agree with petitioner. Section 353.31(a)(i) of the Department's regulations states that the last date factual information can be submitted for consideration in a final determination is 'seven days before the scheduled date on which the verification is to commence." This information was not submitted prior to the start of verification and, therefore, it is untimely. It also is unclear that the information was "inadvertently' omitted as Carmiel claims. At verification, Carmiel officials stated that they had chosen not to report this discount because the value of the discount was insignificant compared to the amount of work involved. Thus, even if the Department were to consider inadvertency as an excuse, it has not been established in this instance. Finally, while the Department's verifiers did examine several home market sales, they saw no documentation regarding these discounts and thus, there is no basis for considering these discounts to have been verified.

# Comment 3

Carmiel argues that the Department should calculate the home market credit expense using a higher interest rate than that used for the preliminary determination. Carmiel points out that, at verification, the team saw evidence of company borrowing at a much higher interest rate, indicating that the company's home market credit costs were actually higher than reported. Using the lower rate to make the credit adjustment would understate the company's expenses. Therefore, the Department should use either the higher rate, or an average of the reported rate and the higher rate.

Petitioner claims that there is no verified information indicating the extent of Carmiel's borrowing which is taken out at the higher interest rate. While officials stated that the majority of Carmiel's short-term financing was at the higher rate, this claim was not substantiated. Additionally, petitioner argues, rational economic behavior suggests that the majority of Carmiel's financing would be at the lower rates. Moreover, the Department does not possess enough verified information to appropriately weight the two rates in order to calculate an average. Finally, petitioner points out that Carmiel chose to report the lower, more conservative rate.

### DOC Position

Carmiel reported the lower rate in its response, and we verified this rate. While we also verified that Carmiel received some financing at the higher rate, we do not have verified information regarding the total amount of Carmiel's borrowings at this rate. We agree with petitioner that without knowing what portion of Carmiel's short-term financing is at the higher rate, it is not possible to calculate a relevant average of the two rates. Therefore, we have used the lower interest rate reported by respondents in making the home market credit adjustment.

#### Comment 4

Carmiel states that the Department's adjustments for VAT in this case are a misapplication of the statute because Carmiel reported its home market sales "net" of VAT. Carmiel recognizes that this adjustment was made as a result of the CIT decision in Federal-Mogul Corp v. United States, 15 ITRD 1127 (CIT 1993); however, Carmiel argues that the court also misinterpreted the statute. According to Carmiel, the statute only requires the Department to adjust for VAT when it is included in or added to the home market prices reported. Thus, when the tax is not included in or added to the prices reported, the Department should not then add the tax to FMV. Carmiel claims that adding VAT to both FMV and USP, as was done in the preliminary determination, resulted in significant distortions to Carmiel's margin.

Petitioner argues that the Department appropriately adjusted for VAT by adding the tax to both FMV and USP and that this adjustment did not distort Carmiel's margins. Petitioner cites *Calcium Aluminate Coment, Cement Clinker and Flux from France*, 59 FR 14136, 14138 25, 1994) in support of the argument that the Department must include an adjustment for VAT in the USP to account for VAT in the home market. Because respondent has reported home market sales values excluding VAT, the Department should add VAT to the net FMV and USP.

# **DOC Postition**

The statute provides for dumping determinations to be made on a tax inclusive basis. Section 772(d)(1)(c) of the Act provides for an offsetting

adjustment to U.S. price, based on the presumption that home market prices include VAT. Accordingly, the Department has insisted that HM prices be reported on a VAT inclusive basis (see Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from The Federal Republic of Germany, 54 FR 18992, May 3, 1989). Allowing respondents to choose whether to report HM prices net of taxes would allow them to partially determine their own dumping margins. Because respondent reported its home market sales net of VAT, we have added the VAT back onto the home market price and adjusted the USP accordingly.

# Comment 5

Petitioner argues that two companies, Keshta Ltd. ("Keshta") and Keshet Steel Import/Export Company ("Keshet"), are so closely related to Carmiel that the three companies should be treated as one for the purposes of the final determination.

Carmiel states that since it reported the sales of both Keshet and Keshta, the companies are essentially being treated as one company. Furthermore, since Carmiel is the only exporter, Keshet and Keshta would be subject to the all others rate (Carmiel's rate) if they did begin to export to the United States.

# **DOC Position**

We verified that neither Keshet nor Keshta made sales to the United States during the POI. Moreover, we verified that the sales of both Keshet and Keshta were included in Carmiel's home market sales response. Therefore, the three companies have been treated as one company for purposes of this determination.

### Comment 6

Petitioner argues that certain of Carmiel's movement expenses are most likely incurred by value and, thus, should have been allocated by value rather than by weight.

Carmiel argues that the results of allocating by value versus allocating by weight will be virtually the same given the small amounts in question and the fact that the price and weight of the elbows in question rise proportionately. Furthermore, Carmiel states that the costs were allocated according to the Department's instructions. Therefore, the Department should continue to use the costs as allocated by Carmiel and as verified by the Department.

# **DOC Position**

We agree with petitioner that marine insurance and agents fees should have