adjustments in indirect selling expenses.

Department's Position: We agree with Torrington and have disallowed SKF's billing adjustment number two claim because SKF did not demonstrate that the allocated billing adjustments pertained to subject merchandise only. See Torrington I. SKF provided no means of identifying and segregating billing adjustments paid on non-scope merchandise.

SKF's reliance on Koyo Seiko is misplaced. In that case the CIT upheld the Department's treatment of certain allocations as indirect selling expenses. The CIT in Koyo Seiko was not presented with and did not address the issue of the proper treatment of allocations which may include out-ofscope merchandise. The CIT in *Torrington I* did address this issue and held that the Department could not properly use a methodology which included discounts, rebates, and price adjustments "on out of scope merchandise in calculating adjustments to FMV and ultimately the dumping margins.'

*Comment 11:* Torrington argues that the Department should disallow entirely SKF-Germany's reported HM earlypayment cash discounts because they were not reported on a transactionspecific basis. Torrington holds that the Department must disregard these billing adjustments entirely because they may not be exclusively associated with subject merchandise.

SKF-Germany maintains that the Department should treat the HM cash discount as a direct adjustment to price. Alternatively, SKF-Germany argues that the Department, in accordance with *Koyo Seiko*, should continue to treat these cash discounts as indirect selling expenses. SKF-Germany states that, as noted in the Department's verification report, HM cash discounts were reported on a customer-specific, not sale-specific, basis.

Department's Position: We agree with Torrington and have disallowed SKF's cash discounts because SKF did not demonstrate that the allocated price adjustments pertained to subject merchandise only. See *Torrington I*. See our discussion of this issue at *Comment* 10.

*Comment 12:* Torrington argues that the Department should disallow entirely SKF-Germany's reported HM rebate number two because this rebate is neither transaction-specific nor productspecific but customer-specific, and may thus include amounts associated with non-subject merchandise. Alternatively, Torrington argues that the Department should treat this adjustment as an indirect selling expense, rather than a direct selling expense.

SKF-Germany argues that in the preliminary results of this review the Department properly treated SKF's HM rebate number two as a direct adjustment to price, just as in each of the three prior reviews. SKF-Germany contends that no new evidence exists which would cause the Department to depart from its established practice. SKF-Germany maintains that rebate two, which guarantees a specific reseller profit, is paid on the basis of the resale performance of SKF-Germany's customers. Because rebate two, as verified by the Department, is paid as a fixed percentage of all resales by SKF-Germany's customers, SKF-Germany calculated customer-specific factors for each rebate to a customer by allocating actual rebates paid over SKF-Germany's sales to its customer.

Department's Position: We agree with Torrington and have disallowed SKF's billing adjustment two because SKF did not demonstrate that the allocated billing adjustments pertained to subject merchandise only. See *Torrington I*. See our discussion of this issue at *Comment* 10.

Comment 13: Federal-Mogul urges the Department to apply BIA to SKF-France's HM billing adjustments. Federal-Mogul notes that SKF-France considered any billing adjustments which amounted to less than five percent of the gross unit price or 1000 French francs to be insignificant and did not report such adjustments. Federal-Mogul argues that SKF-France cannot take upon itself the authority to determine what constitutes an insignificant adjustment to FMV. Federal-Mogul suggests that a proper BIA would be to increase FMV by 4.99 percent of the HM price.

SKF-France contends that based on the verified record, neither an adjustment to SKF's prices nor use of BIA is warranted. SKF-France argues that according to Departmental regulations insignificant adjustments which have an ad valorem effect of less than 0.33 percent may be disregarded (19 CFR 353.59(a)). SKF-France asserts that the Department verified that unreported billing adjustments are insignificant, and in fact de minimis, under the Department's regulations. Additionally, SKF-France notes that since all unreported billing adjustments represent credit memos to the customer, the unreported adjustments had a detrimental rather than beneficial effect on SKF-France's margin calculations. Therefore, SKF-France contends that the Department should continue to accept

its billing adjustments for these final results.

Department's Position: We agree with Federal-Mogul that SKF-France cannot take upon itself the authority to determine what constitutes an insignificant adjustment to FMV. However, at verification we confirmed that the billing adjustments in question represent decreases to FMV. Therefore, we agree with SKF-France that the omission of these billing adjustments had a detrimental affect rather than beneficial effect on its margin calculations. Thus, we have accepted SKF-France's billing adjustments for these final results.

Comment 14: Torrington argues that the Department's preliminary decision to deny FAG-Germany an adjustment for 1993 HM rebates based on the fact that FAG failed to report either actual or estimated 1993 U.S. corporate rebates is insufficient. Torrington argues that FAG's failure to report 1993 corporate rebates is a fundamental deficiency which calls for the application of a "second-tier" BIA to those U.S. transactions in which FAG failed to properly report a corporate rebate. Torrington contends that the Department's preliminary response may reward FAG for its failure to report 1993 U.S. corporate rebates if the HM rebates denied do not apply to the same types of sales as those found in the U.S. market or are not of the same magnitude as the U.S. corporate rebates which went unreported. FAG-Germany granted HM rebates to only a small number of customers and generally at lower rates than the U.S. corporate rebates. Finally, Torrington asserts that when deciding what BIA approach to use for the final results, the Department should also consider the fact the FAG never clearly stated in its responses that it had not reported estimated 1993 corporate rebates.

FAG-Germany asserts that its rebates were accurately reported given the nature of the rebate programs in each market and that the use of BIA is unwarranted. The companies reported estimated 1993 rebates differently for the HM and U.S. market because clear differences exist between their HM and U.S. rebate programs. Therefore, the Department erred in denying rebate adjustments in the HM on 1993 sales in order to remain consistent with FAG-US' methodology of not reporting 1993 rebates.

Department's Position: We agree with Torrington that disallowing an adjustment for FAG-Germany's estimated 1993 HM rebates is not the most appropriate means to account for respondents' failure to report estimated