prices to aftermarket customers did not differ from NTN's prices to other classes of customers. Further, because we examine customer function and other factors in determining levels of trade, we agree with NTN that the number of sales to customers at a given level of trade is irrelevant to rendering determinations regarding the existence of distinct levels of trade. Therefore, we conclude that NTN's aftermarket customers constitute a distinct level of trade and have compared aftermarket sales in the United States first to aftermarket sales of such or similar merchandise in Japan.

Comment 4: NSK argues that the Department incorrectly classified customer category 4 sales—sales through distributors to OEMs for OEM use—as sales to the aftermarket level-oftrade. According to NSK, category 4 sales should be matched to OEM level of trade sales under either of the methods of analysis used by the Department: (1) Correlation of price to level of trade; or (2) function of the first unrelated customer. NSK contends that these distributors act as purchasing agents for large OEM corporations and purchase bearings for immediate resale to OEMs, and in some cases NSK ships directly to the OEM. In addition, NSK claims that the price to level of trade comparison submitted in the Section C response confirms that category 4 sales are at the OEM level of trade. Finally, NSK argues that, in the TRB reviews, the Department correctly recognized that category 4 sales were at the OEM level of trade and accordingly matched them to OEM U.S. sales.

Torrington contends that NSK's sales designated as category 4 meet neither of the two tests cited by NSK as relevant. Torrington claims that the Department requested that NSK substantiate its claim that it sells at four different levels of trade and that pricing is reflective of the different levels of trade. According to Torrington, NSK submitted an analysis which collapsed the four levels of trade into two levels, but did not demonstrate that pricing and selling practices differed among four individual levels of trade. Furthermore, Torrington contends that the Department should retain the level-of-trade classifications from the preliminary results because NSK failed to demonstrate the first unrelated customer in category 4 sales is the OEM customer.

Department's Position: We agree with NSK. We initially consider customer function to determine our level-of-trade classification. In its section C response, NSK provided an analysis of quantities and weighted-average prices by customer category and model and by

customer category and class (BBs and CRBs). This analysis revealed that the quantities and weighted-average prices for sales to customer category 1 (sales directly between NSK and OEM customers) are similar to sales to customer category 4 (sales to distributors for resale to OEMs) but significantly different from the quantities and weighted-average prices of sales to aftermarket customers and distributors (customer category 2 and 3, respectively). Therefore, based on this data, we have collapsed sales to customer categories 2 and 3, and collapsed categories 1 and 4, to form two levels of trade for HM sales.

10. Packing and Movement Expenses

Comment 1: Torrington and Federal-Mogul argue that FMV should not be adjusted for pre-sale inland freight costs, whether compared to PP sales or to ESP sales. Torrington contends that movement expenses should be deducted from FMV only if they are directly related to home market sales. Torrington claims that the Department has begun to allow home market deductions for all inland freight expenses without distinguishing between pre- and postsale expenses. Therefore, Torrington concludes that the Department's approach is without statutory basis and has been found unlawful by the U.S. Court of Appeals for the Federal Circuit (CAFC).

Torrington and Federal-Mogul also maintain that there is no basis for treating pre-sale inland freight differently when FMV is compared to ESP than when FMV is compared to PP. They point out that the CAFC has disallowed deduction of pre-sale transportation costs from FMV in PP comparisons, and they argue that the Court's decision also applies to ESP comparisons because the statute does not provide for an adjustment to FMV in ESP comparisons that would distinguish the rationale applied in Ad Hoc Committee. Furthermore, Federal-Mogul argues that pre-sale transportation costs cannot be linked to particular sales, and that the Department lacks the authority to adjust FMV for such expenses under the ESP offset provision.

Nachi, Koyo, NSK, SKF, NPBS, and NMB/Pelmec argue that the Department should continue its practice of treating pre-sale inland freight charges as a direct adjustment to FMV in ESP comparisons. They contend that the Federal Circuit's opinion in *Ad Hoc Committee* does not apply when FMV is compared to ESP transactions because the CAFC made only a limited ruling on the Department's authority to adjust for

pre-sale inland freight in PP situations. In support, Nachi cites The Torrington Company v. United States, No. 94–38, Slip Op. at 8 (March 4, 1994), where the CIT held that in *Ad Hoc Committee*, the CAFC "limited its decision to the calculation of FMV in purchase price situations only." In addition, Nachi notes that Ad Hoc Committee leaves undisturbed the Department's previous practice of treating pre-sale inland freight charges as indirect selling expenses. Therefore, Nachi states that if the Department incorrectly determines that pre-sale inland freight should not be directly deducted from FMV, the Department should at least treat this expense as an indirect selling expense.

FAG also contends that the Department properly adjusted FMV for pre-sale inland freight. FAG points out that while the CAFC held that the Department improperly rationalized its adjustment to FMV for pre-sale freight on its inherent authority to fill gaps in the statute, the CAFC in Ad Hoc Committee did not rule as to whether the Department could have justified its deduction to FMV under some other statutory authority or whether the statute permitted an adjustment to FMV for pre-sale freight where USP was based on ESP. FAG argues that the CIT has also rejected Torrington's contention that pre-sale freight expenses are neither selling expenses nor indirect expenses. In addition, FAG maintains that if the Department decides in Torrington's favor on this issue, then the Department should also exclude presale movement charges as an adjustment to USP. SKF argues that the Department must maintain its practice of deducting HM pre-sale inland freight from FMV when USP is based on ESP, which has similarly been reduced by pre-sale inland freight.

FAG, NTN, and NMB/Pelmec state that the Department's decision to adjust FMV to account for pre-sale inland freight costs is supported by the recent CIT decision in Federal-Mogul v. United States, 17 CIT _, Slip Op. 94–40 (March 7, 1994). Given the Department's broad authority to make circumstance of sale (COS) adjustments, FAG, NTN, NSK, and NMB/Pelmec argue that the Department may legitimately make COS adjustments to FMV to account for presale inland freight costs. NSK adds that the Department's regulations do not require that all adjustments to FMV be related to particular sales. See 19 CFR $353.56(a)(\bar{1})$.

Department's Position: We have determined that, in light of the CAFC's decision in Ad Hoc Committee, the Department no longer can deduct home market pre-sale movement charges from