methodology accounts for appropriate differences in merchandise.

Comment 3: NSK asserts that zeroprice samples and prototype sales should be excluded from the U.S. sales database because the record demonstrates that the provision of these samples are not sales but rather promotional expenses. NSK contends that the "ordinary course of trade" analysis has been applied by the Department to exclude certain U.S. sales from its analysis, citing Ipsco, Inc. v. United States, 714 F. Supp. 1211, 1217 (CIT 1989). NSK contends that if the Department does not exclude zero-price samples from the U.S. sales database, then the Department should deduct the cost of these samples from NSK's indirect selling and G&A expenses.

Torrington argues that the statute requires analysis of each U.S. entry in the context of administrative reviews. Section 1675(a)(2)(A) of the Tariff Act (19 USC 1675(a)(2)(A)) and the *IPSCO* decision, which NSK cites to support its claim, did not exclude all sales from USP which are made outside the ordinary course of trade. Federal-Mogul argues that the Department should continue to reject exclusion of NSK's zero-value U.S. transactions as it has done in the last two AFBs administrative reviews. Torrington also contends that the Department should not deduct the cost of these samples from NSK's indirect selling and G&A expenses because NSK has not provided support on the record for the amounts that it claims should be deducted.

Department's Position: As set forth in AFBs II (at 28395) and AFBs III (58 FR at 39744), other than for sampling, there is neither a statutory nor a regulatory basis for excluding any U.S. sales from review. The statute requires the Department to analyze all U.S. sales within the POR. See 19 USC 1675(a)(2)(A). See also Final Results of Antidumping Administrative Review; Color Television Receivers From the Republic of Korea, 56 FR 12701, 12709 (March 27, 1991). The Department agrees with Torrington that Ipsco is inapplicable to this case because that case concerns a LTFV investigation in which the Department has the discretion to eliminate unusual U.S. sales, as opposed to an administrative review in which section 751(a)(2)(A) of the Tariff Act (19 USC 1675(a)(2)(A)) requires analysis of "each U.S. entry" except in cases where the agency utilizes "averages or generally recognized sampling techniques" pursuant to section 777A of the Tariff Act (19 USC 1677f-l). As a result, we have not excluded any of NSK's U.S. sales. However, the Department also

agrees with NSK that the costs of these samples should not be included as part of NSK's indirect selling expenses because we are considering these transactions as sales and are comparing them to FMV. Therefore, we have deducted the costs of samples from NSK's indirect selling expenses.

13. Taxes, Duties and Drawback

Comment 1: Federal-Mogul maintains that the Department's new tax methodology is still legally flawed in that it fails to "cap" the amount of tax added to USP at the amount of tax added to or included in the price of the foreign market comparison model. Federal-Mogul cites 19 USC 1677 (d)(1)(C), which requires that forgiven taxes be added to USP "but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation," and claims that this provision explicitly requires such a cap. Federal-Mogul further argues that if the addition to USP is not capped by the amount of tax paid on HM sales, a situation could arise where the tax added to USP exceeds the actual taxes paid on HM sales.

FAG, SKF, and RHP contend that if the Department were to add the actual amount of taxes paid on HM sales to the net U.S. invoice price, a "cap" would not be necessary. SKF further argues that under the Department's current method of accounting for taxes, the tax added to USP exceeds that added to FMV only when USP itself is higher than FMV. Therefore, SKF concludes that capping is unnecessary because the Department's method does not reduce dumping margins. Finally, Koyo argues that if the Department accepts Federal-Mogul's argument that the tax added to USP should be capped, the Department also should cap the amount of tax attributed to the adjustments to USP.

Department's Position: We disagree with Federal-Mogul. The Department's methodology consists of applying the home market tax rate to the U.S. price at the same point in the chain of distribution at which the home market tax base is determined and then reducing the tax in each market by that portion of the tax attributable to expenses which are deducted from each price. For example, because we deduct ocean freight from U.S. price, ocean freight is also eliminated from the U.S. tax base. This is consistent with the decision of the CIT in Federal-Mogul v. United States, 834 F. Supp. 1391 (CIT 1993). The effect of these adjustments is the same as initially calculating the tax in each market on the basis of adjusted prices.

The "cap" was devised at a time when the Department was not effectively calculating the tax in each market on the basis of adjusted prices. It was intended to keep differences in expenses which were eliminated through adjustments to the price in each market from continuing to affect the dumping margin by remaining in the basis upon which the tax in each market was determined. The Department's current practice of effectively using adjusted prices in each market as the tax base automatically achieves this purpose. The imputed U.S. tax will exceed the tax on the home market sales to which they are compared only where the adjusted U.S. price is higher than the adjusted home market price—that is, for non-dumped sales. A tax cap is irrelevant for such sales, because no duties are assessed upon them. Consequently, the absolute margins obtained under the Department's current approach are identical to those which would be obtained after imposing a tax cap.

Although applying a tax cap may affect weighted-average margins, and hence deposit rates, we decline to reapply the tax cap solely to achieve this additional purpose. The Department includes U.S. prices that exceed foreign market prices in the denominator of the deposit rate equation. It would be inconsistent to include that portion of the U.S. price that exceeds the home market price in that denominator, but to remove the tax on this amount. Just as we treat the tax on ocean freight consistently with ocean freight itself, where we include the full adjusted U.S. price in the denominator of the deposit rate equation, we must also leave the tax on that full U.S. price in that denominator.

Comment 2: FAG, SNR, SKF, RHP, NSK, and Koyo contend that the method that the Department used to account for VAT in the preliminary results of this review is improper.

FAG argues that the Department's methodology violates statutory and judicial requirements because the VAT rate is not applied to USP and FMV where the HM tax authorities apply the VAT to home market sales. FAG claims that all laws governing the assessment of the VAT require that the tax be applied to the net invoice price of goods sold in the HM. Therefore, FAG contends that the Department should apply the VAT amount collected in the foreign market to a net U.S. invoice price instead of applying VAT to an exfactory price in both the U.S. and home markets. U.S. invoice price is at the same point in the stream of commerce