prices in order to eliminate dumping. SKF holds that the CIT has upheld the Department's practice of not deducting resale profits on ESP sales. See *Federal-Mogul Corp.* v. *United States*, 813 F. Supp. 856, 866 (1993).

Department's Position: As stated in AFBs III (at 39777), we disagree with Torrington that resale profits should be deducted from ESP. We find no statutory authority for making this adjustment. Furthermore, the CIT has upheld the Department's practice of not deducting resale profits on ESP sales. See Federal-Mogul Corp. v. United States, 813 F. Supp. 856, 866 (1993).

Comment 2: Koyo, RHP, SNR, NSK, and FAG claim that the Department's practice of deducting U.S. direct selling expenses from USP, in ESP situations, instead of adding them to FMV is unlawful. Respondents cite judicial precedent in support of their position that direct selling expenses should be added to FMV. For example, NSK maintains that the Department's methodology violates the ruling of the CIT in NSK Ltd. v. United States, Slip Op 93–216 (CIT 1993). Respondents claim that the Department should treat direct selling expenses as COS adjustments to be added to FMV in order to comply with recent CIT rulings.

Department's Position: The CAFC has upheld the Department's practice of deducting U.S. direct selling expenses from USP in ESP situations. See Koyo Seiko Co. v. United States, 36 F.3d 1565 (Fed. Cir. 1994). Therefore, we have continued to deduct direct selling expenses from ESP in these reviews.

Comment 3: Koyo contends that the Department's failure to average USPs in the same manner as it averaged FMV was an abuse of discretion and contrary to law. Koyo argues that the Department has distorted the dumping margins through its comparison of single transaction prices in the United States with average prices weighted over the entire review period in the home market. Koyo maintains the "inequity" of this methodology is largely attributable to the Department's practice of not crediting manufacturers with negative dumping margins on U.S. sales at prices "above those in the foreign market." Koyo states that pursuant to 19 U.S.C. 1677(f)(1) the Department is required to use averaging to establish both USP and FMV when such averaging techniques yield fair and representative results. Koyo notes that the Department used weighted-averaged U.S. prices in Final Results of Administrative Review; Certain Fresh Cut Flowers from Mexico, 55 FR 12696, 12697 (April 5, 1990). Koyo requests that the Department use its annual

average methodology for both USP and FMV in order to achieve representative results as required by the antidumping law.

Torrington and Federal-Mogul disagree with Koyo's argument that comparing weighted-average USPs with a weighted-averaged FMV is reasonable and in accordance with Departmental precedent and the law. Torrington's reasoning is that averaging U.S. price would "encourage and reward price discrimination, the very practice that antidumping law is designed to combat." In response to Koyo's argument that the Department should credit foreign manufacturers for ''negative dumping margins,' Torrington argues that this "would allow dumping to continue so long as other sales were made at prices sufficiently high to mask dumped sales." In support of this position Torrington cites the ruling in Serampore Industries Pvt., Ltd. et al. v. United States, 11 CIT 866, 874, 675 F. Supp. 1354, 1360-61 (1987). Torrington also maintains that the Department generally only averages USPs in the case of perishable products or other merchandise characterized by price volatility. Torrington notes that AFBs are not perishable; therefore, Koyo's citation to the Fresh Cut Flowers from Mexico case, a precedent with respect to perishable goods, is inappropriate. Federal-Mogul maintains that the Department should not average USP in this review because it has rejected Koyo's request to do so in the past and Koyo's arguments have not changed.

Department's Position: As stated in AFBs III (at 39779), we disagree with Koyo's assertion that we must average USPs on the same basis as FMV to ensure an "apples-to-apples" comparison. In addition, we agree with Torrington that averaging USP is unacceptable in most cases because it would allow a foreign producer to mask dumping margins by offsetting dumped prices with prices above FMV. For example, a foreign producer could sell half its merchandise in the United States at less than FMV, and the other half at more than FMV, and arrive at a zero dumping margin while still

dumping

Except in limited instances in which we have conducted reviews of seasonal merchandise with very significant price fluctuations due to perishability (see, e.g., Final Results of Administrative Review; Certain Fresh Cut Flowers from Mexico, 55 FR 12696, 12697 (April 5, 1990)), we have not averaged U.S. prices. See Final Results of Antidumping Administrative Review; Pressure Sensitive Plastic Tape from

Italy, 54 FR 13091 (March 30, 1989). Since the merchandise under review is not a perishable product, there is no reason to change our current methodology, which has been upheld by the Court of Appeals. See *Koyo Seiko* v. *United States*, 20 F.3d 1156 (Fed. Cir. 1994).

Comment 4: Torrington argues that the Department should reclassify Honda's sales to the United States as PP transactions, rather than treating Honda as a reseller of AFBs. Although Torrington acknowledges that the Department found no evidence at verification that Honda's suppliers were aware of the ultimate destinations of their merchandise, Torrington asserts that Honda's Japanese suppliers must have known that Honda had substantial manufacturing activities in the United States and that, therefore, many of their AFBs were destined for the United States.

Honda responds that it is a reseller of AFBs, rather than a manufacturer, and that Honda's suppliers in Japan did not know, or have reason to know, that specific AFBs were ultimately destined for the U.S. market. According to Honda, no AFBs were ordered directly by any of its U.S. affiliates from its Japanese suppliers. Furthermore, Honda states that its orders of AFBs from its suppliers did not indicate, by way of timing of shipments or orders, the terms of sale, or any other factors, the ultimate destination of the AFBs. Honda also contends that these conclusions were fully verified by the Department and confirmed in the Department's verification reports.

Honda notes that Torrington does not dispute Honda's statements or the Department's findings. Honda further points out that the standard for suppliers' knowledge concerning the ultimate destination of merchandise "is high." See Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Administrative Review, 58 FR 11216 (February 24, 1993). As a result, Honda states that the fact that Honda's suppliers were aware that some AFBs would be exported to the United States because Honda has U.S. manufacturing operations is insufficient to justify reclassifying Honda's sales as PP

Department's Position: We agree with Honda that it should be treated as a reseller. This issue was examined extensively at verification. See Honda Motors Verification Report at 3 and 4, March 4, 1994. The standard for the "knowledge test" is high. See Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping