Department's Position: We disagree with Federal-Mogul. SKF-Italy's decision to position its merchandise in an SKF warehouse in close proximity to a customer does not necessarily indicate that the warehousing expense is directly related to sales. Unlike the situation in Carbon Steel Wire Rod, where merchandise was shipped pursuant to specific orders, the record indicates that SKF-Italy stores its merchandise in the bonded warehouse in anticipation of future sales. See Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from the Republic of Korea, 51 FR 40833 (November 10, 1986). Although SKF-Italy sells to only one customer from its bonded warehouse, the warehousing expenses are incurred prior to date of sale and regardless of whether the anticipated sales are made. As a result, the warehousing expenses are not directly related to individual sales, and the warehousing costs are properly classified as an indirect expense. Therefore, in accordance with our decision in AFBs II (at 28398), we have determined that SKF-Italy's bonded warehousing expenses are properly treated as indirect selling expenses (see also Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, 52 FR 30700 (August 17, 1990); NTN Bearing Corp. of America, American NTN Bearing Manufacturing Corp., and NTN Toyo Bearing Co., Ltd. v. U.S. and Timken Co., 747 F. Supp. 726 (CIT

Comment 15: SKF-Italy argues that the Department eliminated a number of HM transactions based on the erroneous conclusion that such transactions reflected preferential prices to related parties. SKF-Italy asserts that there is no direct or indirect ownership or control between the companies, and that the relationship between the parties noted by the Department at verification has no influence on price. SKF-Italy also states that the Department's comparison of average prices is insufficient to test the arm's-length nature of the transactions because the Department included companies with no common ownership interests and companies with ownership interests of less than 20 percent, did not individually analyze the companies involved, and did not consider the relative quantities involved.

Torrington maintains that the Department will use sales to related parties as a basis for FMV only if it is satisfied that the price is comparable to the price at which the producer or reseller sold such or similar merchandise to unrelated parties, and

that the only valid criterion in this determination is price. Torrington argues that there is a regulatory presumption that related-party sales should be excluded in a calculation of FMV. Federal-Mogul and Torrington state that the burden is on the respondent, not the Department, to overcome this presumption by demonstrating affirmatively that related-party transaction prices are comparable to prices to unrelated parties.

Torrington also asserts that SKF-Italy has failed to submit any data demonstrating that its prices to related and unrelated parties are comparable and thus has not met its burden. Torrington and Federal-Mogul further point out that SKF-Italy has provided no evidence on the record regarding any particular related-party sales or the price comparability of its related-party sales.

Department's Position: We disagree with SKF-Italy. 19 CFR 353.45 provides that the Department ordinarily will include related-party sales in the calculation of FMV only if it is satisfied that the sales were made at arm's-length prices, *i.e.*, that the prices of such sales are comparable to the prices at which the seller sold such or similar merchandise to unrelated parties. For purposes of applying this provision, section 353.45 also refers to section 771(13) of the Tariff Act for the definition of related parties. We preliminarily determined that SKF-Italy made HM sales to customers related to them as described in section 771(13)(D) of the Tariff Act. Accordingly, we conducted an analysis to determine whether these sales were made at arm'slength prices. Because we determined that these sales were not made at arm'slength prices, we excluded them from our calculations of FMV.

On reexamination of the evidence on the record, however, we determined that one of these HM customers in fact did not meet the definition of a related party as specified in section 771(13) of the Tariff Act. Therefore, for these final results we retained sales to this customer SKF-Italy in calculating FMVs and did not include these sales in our arm's-length analysis for related-party sales.

In determining whether prices to related parties are in fact arm's-length prices, we rely on a comparison of average unrelated-party prices for each model to average related-party prices for the same models. When average prices to unrelated parties are predominantly higher than average prices to related parties for the class or kind of merchandise, we disregard sales to related parties for that class or kind.

Because SKF has provided no evidence to refute our findings that the average prices of certain models sold to related parties are not comparable to the average prices of these models sold to unrelated parties, other than reference to statements by company personnel at verification that these companies were not related, we have continued to exclude these sales for the final results. See SKF Sverige AB Verification Report, February 23, 1994, and *Rhone Poulenc Inc. v. United States*, 899 F. 2d 1185 (Fed Cir. 1990).

Comment 16: FAG-Italy contends that the Department improperly used zero-priced U.S. sample and prototype sales in the calculation of USP because such sales are not made in the ordinary course of trade and are therefore similar to the type of sales the statute permits the Department to exclude in the HM. Additionally, FAG-Italy claims the Department is not required to review each and every U.S. sale.

Alternatively, FAG-Italy argues that if the Department compares the U.S. zero-price sample sales to HM sales in which value was received, the Department should make a COS adjustment to account for the different circumstances under which the sales were made. FAG-Italy argues that the Department should adjust FMV in the amount of the expenses directly associated with the U.S. sample sale and suggests reducing FMV by the amount of the COP of the U.S. sample sale.

SKF-Italy contends that the Department should have excluded from its margin analysis, as outside the ordinary course of trade, two Italian prototype products sold into the U.S. market. SKF-Italy claims that, based on the commercial, sales and cost data provided in response to the Department's questionnaire, SKF-Italy's claim for exclusion should be allowed.

Federal-Mogul and Torrington contend that, in order to assure the validity of the Department's sample, the Department must not drop these U.S. sample and prototype sales from its analysis. Federal-Mogul and Torrington further maintain that the arguments regarding the ordinary course of trade are completely irrelevant because the ordinary course of trade provision applies only to the calculation of FMV, not USP. Petitioners claim that section 751(a)(2)(A) of the Tariff Act (19 USC 1675(a)(2)(A)) requires the Department to calculate the amount of duty payable on "each entry of merchandise" into the United States. Torrington states that this provision should be compared with section 773(a)(1)(A) of the Tariff Act (19 USC 1677b(a)(1)(A)), which requires