producer's U.S. price and foreign market value are to be determined using data in the books and records of that producer, kept in the normal course of trade, as long as such data do not distort the producer's actual prices or costs.

Department's Position: We disagree with both parties, in part. There is no requirement, in either the statute or the regulations, that the dumping margin be calculated in U.S. dollars. Nevertheless, when certain elements of the dumping calculation were paid in U.S. dollars, and other elements in a foreign currency or currencies, it is the Department's longstanding practice to convert foreign currency amounts into U.S. dollars before calculating dumping margins, in accordance with the rates established in 19 CFR 353.60(a). In this case, prices were set, and paid, in U.S. dollars. Therefore, for these final results, we have used the U.S. dollar price paid by the U.S. customer as the basis of U.S. price, and converted expenses incurred in French francs to U.S. dollars on the date of the U.S. sale. We have used the date of sale, i.e., the date on which the terms of the sale were set, as the date on which we have converted all foreign currency transactions.

Comment 2: Petitioner claims that the use of JST's exchange rate guarantees in calculating a dumping margin is not in accordance with law. Petitioner argues that the Court of International Trade has held that gains from exchange contracts cannot be used to increase U.S. price, and at best a respondent may treat those gains or expenses solely as indirect selling expenses on its U.S. sales. Petitioner cites *Thyssen Stahl AG* v. United States, Slip Op. 95-78 (Ct. Int'l Trade April 27, 1995) (*Thyssen*), where the court reversed the Department's determination to treat gains from an exchange rate contract as a circumstance-of-sale adjustment. Petitioner states that the court noted that the antidumping statute did not provide for such an adjustment and the Department's implementing regulations "did not contemplate currency hedging," and that the court rejected the respondent's theory that the antidumping law is designed to compare a respondent's overall return or profit between its U.S. and foreign market sales. Petitioner notes that, instead, the court in *Thyssen* held that exchange rate gains and losses could be considered indirect selling expenses.

Petitioner notes that the *Thyssen* court relied heavily on *Torrington Co.* v. *United States*, 832 F.Supp. 379, 391–92 (Ct. Int'l Trade 1993) (*Torrington*), in which the court reversed the Department's adjustment to U.S. price to take into account a currency guarantee.

JST states that the petitioner has misread the *Torrington* and *Thyssen* decisions. JST argues that the court's finding in *Torrington* was clearly limited to the conclusion that the respondent's currency hedging expenses were not directly related to the specific sales under review. JST argues that the court similarly found that Thyssen had failed to demonstrate the requisite direct relationship to the U.S. sales under consideration. JST concludes that neither the *Torrington* nor the *Thyssen* decision limits the Department's ability to treat any difference between JST's transaction-specific exchange rate guarantees and the exchange rate on the date of sale as a direct selling credit for which an adjustment to foreign market value must be made.

JST argues that the production and sale of LPTs varies from most other merchandise that is subject to antidumping orders. JST explains that producers bid to supply transformers more than a year before the transformers will be delivered. Because the bid is a firm commitment to supply a high-cost transformer at a specific price, JST states that it always arranges for a projectspecific exchange rate guarantee before it bids on a contract to supply an LPT to a U.S. customer. JST states that the transaction-specific exchange rate guarantees that it secured on its reviewperiod sales to the United States are different from general currency hedges. JST argues that the exchange rate guarantees at issue transform JST's review-period sales to the United States into French franc-denominated sales against which the company could control the French franc costs that it incurred during the design, production, test and delivery cycle. JST states that the Department verified that JST maintains detailed transaction-specific French franc-denominated accounts for both the revenues and costs associated with each of its LPT sales. JST argues that a standard dumping calculation based on dollar-denominated U.S. sales would grossly distort the Department's antidumping analysis if the currency conversion were at a rate that differed significantly from the guaranteed rate of exchange that JST secured for each of its U.S. sales, because it would understate the amount actually expected and received by JST. JST cites to the Uruguay Round Agreements Act, Statement of Administrative Action at 172, to argue that it is current Department practice, where a company demonstrates that a sale of foreign currency on forward markets is directly linked to a particular export sale, to use

the rate of exchange in the forward currency sale agreement.

JST argues that, if the Department decides to treat its exports as dollar-denominated sales and decides to convert the French franc-denominated constructed value to dollars at the Federal Reserve exchange rate in effect on the date of sale, the Department must make an adjustment to foreign market value for direct selling credit. JST argues that the result of the credit adjustment is the same as treating the transaction as a foreign currency sale at the guaranteed exchange rate.

Department's Position: We disagree with both parties, in part. The court's decisions in Thyssen and Torrington do not disallow the use of a circumstanceof-sale adjustment in this case. The court in both *Thyssen* and *Torrington* stated that the respondents could not link the sales in question to specific exchange rate guarantee contracts. The facts of this case differ because there is a specific guarantee for each sale to the United States. JST has placed on the record evidence that there was an exchange rate guarantee directly associated with each of its sales to the United States. (See JST's questionnaire response at tabs A-2 and B-2.) At verification, we examined the price in the contract in U.S. dollars, the price the customer paid in U.S. dollars, and the amount JST received from its bank in French francs. (See verification exhibit Sales-4.) While the price to be paid in U.S. dollars by the customer remained constant, JST used an exchange rate guarantee to secure a certain exchange rate for each of its sales. Because the price paid by the customer was set and paid in U.S. dollars, for these final results we have used the price paid in U.S. dollars for purposes of calculating U.S. price. Because of the gain JST earned on these U.S. sales due to exchange rate guarantees, which were directly linked to specific sales of LPTs, we have made a circumstance-of-sale adjustment to foreign market value to account for that gain.

Comment 3: Petitioner argues that the Department understated JST's profit on its home market sales. Petitioner argues that JST improperly excluded data from a certain type of transformer from its home market sales and the Department based its home market profit calculation on the data that excluded transformers of this type. Petitioner states that the transformers in question are within the scope of the finding and JST has provided no scope-related information to explain why this type of transformer should be excluded.

JST stated that the home market and the U.S. sales of LPTs, other than the