

weighted-average dumping margin of greater than *de minimis* or vice versa. See 19 CFR 351.224(g).

Ministerial Error Allegations from the Mandatory Respondents

Comment 1: U.S. Price to Normal Value Comparison

The Mandatory Respondents argue that in calculating the company-specific dumping margins for the *Preliminary Determination*, the Department applied an incorrect U.S. price for Mandatory Respondents' sales of glazed frozen fish fillets (coated with water, then frozen). The Mandatory Respondents claim that for sales involving glazed fillets, Mandatory Respondents reported in the field "NETPRIU," the per-unit price for glazed fillets based on the actual sales quantity (minus the weight of the glaze). In addition, the Mandatory Respondents also reported the corresponding net sales quantity (minus the weight of the glaze) in the field labeled "QTYNETU."

The Mandatory Respondents argue that the Department inadvertently relied upon a price for glazed sales reported in the field "GRSUPRU." However, the Mandatory Respondents argue, the prices reported in this field for glazed fillets do not reflect the actual per-unit prices of glazed products. The Mandatory Respondents note that the per-unit prices reported in "GRSUPRU" field are based on gross sales quantities, including the weight of the glaze. The Mandatory Respondents claim that the Department did not intend to use the gross-weight prices for glazed sales reported in this field in the margin calculations. Therefore, the Mandatory Respondents argue, the Department must rely upon the per-unit price for glazed products reported in the field "NETPRIU."

Department's Position

We agree with the Mandatory Respondents. In our *Preliminary Determination*, we overlooked that the Mandatory Respondents' factor utilization rates, and hence normal values, were calculated based on weights net of glazing water. Therefore, when calculating the dumping margin, we compared each Mandatory Respondent's normal value based on net weight to U.S. prices based on gross weight. This resulted in a distortion which we are correcting.

During the course of the investigation, each Respondent explained that some customers purchased subject merchandise that was water glazed. In addition, the Mandatory Respondents stated that the water and other inputs used to produce glazed products were

reported in the factors of production data. Therefore, in the numerator, the Mandatory Respondents included those factors of production used to produce subject merchandise inclusive of water glazing. However, the denominator used by the Mandatory Respondents represents the weight of the frozen fish products without the excess water weight associated with glazing. Consequently, the consumption ratio of each factor of production reported by the Mandatory Respondents was calculated by using the factors of production (including glazing) as the numerator and the weight of the frozen fish products without the excess water weight associated with glazing as the denominator. As a result, the consumption ratios used to calculate the normal value are based on a weight net of water.

For every U.S. sale, the Mandatory Respondents reported a gross and net price (adjusted for net weight) and a gross and net weight (net of water content associated with glazing). In our *Preliminary Determination*, we based our U.S. starting prices on gross price and weighted the average price per control number (CONNUM) by the gross weight.

To calculate the dumping margins, in the *Preliminary Determination*, we compared the U.S. starting gross price to the normal value calculated on a net basis, inadvertently creating a distorted comparison. For this amended preliminary determination, we have corrected the U.S. sales starting price by replacing the gross price with the net price and have averaged the dumping margins by the net weight in order to achieve a net normal value for a comparison to the net U.S. price. We note that the Department will revisit all aspects of this issue in the final determination.

The correction of this error in combination with the correction of the other errors would result in a margin of 38.09% for Nam Viet and 31.45% for Agifish, while the margins of the remaining Mandatory Respondents do not change significantly as noted below. This is more than five percentage points different from and more than 25 percent of the weighted-average dumping margin calculated in the *Preliminary Determination*. Accordingly, the error regarding the use of net weight and net price alleged by the Mandatory Respondents is a significant ministerial error within the meaning of 19 CFR 351.224(g) with regard to Nam Viet and Agifish.

However, we note that the correction of this error in combination with the correction of the others does not fulfill

the requirement of a significant ministerial error within the meaning of 19 CFR 351.224(g) for CATACO and Vinh Hoan. Therefore, we are not amending our *Preliminary Determination* with regard to CATACO's and Vinh Hoan's U.S. price to normal value comparisons. For a more detailed analysis, please see the company-specific analysis memorandums.

Comment 2: ByProduct Offset

Citing the factors valuation memorandum that accompanied the *Preliminary Determination*, the Mandatory Respondents argue that the Department clearly stated that "for each of the companies in this investigation, the Department has offset the cost of manufacturing by the value of the reported by-products." See *Memorandum to the File from Alex Villanueva, Lisa Shishido, Joseph Welton, and Paul Walker, through Edward C. Yang and James C. Doyle: Factors Valuations for Agifish, Vinh Hoan, Nam Viet and CATACO* ("Factor Memo"), dated January 24, 2003 at 7. However, the Mandatory Respondents argue, in the company-specific margin calculations, the Department did not follow its stated methodology and, instead, applied each company's byproduct credit as an offset to the final normal value, rather than as a deduction to the cost of manufacturing. According to the Mandatory Respondents, the Department's *Factor Memo* indicates that the Department fully intended to deduct each company's byproduct offset from the cost of manufacturing. The Mandatory Respondents assert that it is the Department's normal practice to treat income generated from the sale of byproducts as an offset to production costs and that the cost associated with the production of byproducts are reflected in the costs of the primary products generated in the production process. Thus, the Mandatory Respondents argue, the Department erred in deducting each company's byproduct credits from normal value and must reconfigure the preliminary dumping margin calculations to ensure that the company-specific byproduct offsets are correctly deducted from the cost of manufacturing.

Department's Position

We agree with the Mandatory Respondents that the Department incorrectly deducted the byproduct credit from normal value. The *Factor Memo* clearly stated that for each of the companies in this investigation, the Department would offset the cost of manufacturing by the value of the reported byproducts. We note, however,