

The Petitioners rebut the Mandatory Respondents' allegation by citing the Department's description of its calculation methodology contained in the *Issues and Decision Memorandum* at 6. Furthermore, the Petitioners note that the Department defines ministerial errors as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." Consequently, the Petitioners do not agree with the Mandatory Respondents' ministerial error allegation because the Department explained the rationale for this intended change and because the allegation does not meet the definition of a ministerial error.

#### Department's Position:

We disagree with the Mandatory Respondents that the Department incorrectly deducted the by-product credit from normal value. As we noted in the *Amended Preliminary Determination*, the Department would "carefully revisit all aspects of this issue in the final determination." As explained in the *Issues and Decision Memorandum*, the Department reviewed the surrogate company financial statements, and noted that Apex and Bionic do not reduce their cost of manufacturing amount for the by-product revenues. Instead, they recognize the by-product revenues as "miscellaneous income" which is shown as a separate line item in their financial statements. We used the cost of manufacturing amounts from the surrogate company's financial statements to calculate the selling, general and administrative ("SG&A") and profit rates. Accordingly, the Department has determined that, because the surrogate financial ratios were calculated excluding any by-product revenues, to deduct the by-product credit from the cost of manufacturing would misstate the results.

Therefore, the Department has not made the requested change.

#### Comment 2: Agifish's Electricity Consumption

Agifish argues that the Department incorrectly calculated Agifish's factor input for electricity in the production of the subject merchandise. Agifish asserts that the Department inadvertently transposed two numbers when it recorded electricity usage for the month of January 2002.

#### Department's Position:

We agree with Agifish that the Department incorrectly calculated Agifish's factor input for electricity in the production of the subject merchandise. Accordingly, the error regarding the correction of the electricity alleged by Agifish is a ministerial error within the meaning of 19 C.F.R. 351.224(f).

Therefore, we are amending our *Final Determination* with regard to Agifish's electricity consumption. For a more detailed analysis, please see the *Memorandum to the File from John D. A. LaRose, International Trade Analyst, to the File through James C. Doyle, Program Manager regarding the Amended Final Determination for Agifish* ("Agifish Amended Final Memo"), dated July 18 at 2.

#### Comment 3: Water Consumption

The Mandatory Respondents argue that the Department incorrectly estimated their water consumption ratios in the *Final Determination*. According to the Mandatory Respondents, the Department included the labor and electricity used to pump water into their processing facilities in the consumption figures for labor and electricity, respectively. The Mandatory Respondents argue that for this reason and because the companies do not pay for the water that they pump, the Department double-counted their water consumption at the processing facility in the *Final Determination*. The Mandatory Respondents argue that the Department should not value the water pumped into their processing facilities.

The Petitioners rebut the allegation regarding Agifish and CATACO by noting that the Department stated in the *Issues and Decision Memorandum* at 23 and 25 that Agifish and CATACO failed to provide data on water consumption at their by-products facilities. Accordingly, the Department applied the highest water consumption figures from the processing stage as adverse facts available. Petitioners assert that this was a methodological decision made by the Department.

The Petitioners also rebut all four Mandatory Respondents' argument that water costs are irrelevant because the companies did not pay for the water. Petitioners assert that the Department has specifically determined in past non-market economy cases that it is appropriate to value water in these specific instances, and that the actual price paid by the respondent for water is irrelevant.

#### Department's Position:

The Department disagrees with the Mandatory Respondents. The issue of "double-counting" water consumption by the inclusion in the margin calculations of both the water input and the factors (labor and electricity) used to pump the water is not a ministerial error within the meaning of 19 C.F.R. 351.224(f) because the Department intended to value the Mandatory Respondents' water consumption factors in the manner in which we did. At the time of the *Final Determination*, the Department was unaware of the possibility that the factors to pump water may have been included in the labor and electricity consumption factors. We note that no interested parties raised the issue regarding the "double-counting" of water during the investigation. Furthermore, even if any parties had raised the issue, no information or evidence was provided on the record which would have enabled the Department to address the issue otherwise. Finally, we note that the Mandatory Respondents did not cite any record evidence of "double-counting" in their ministerial error allegation.

Because the Department intended to value the Mandatory Respondents' water consumption factors in the manner in which we did at the time of the *Final Determination*, we do not consider this allegation as a ministerial error within the meaning of 19 C.F.R. 351.224(f). Consequently, the Department has not made the requested change.

#### Ministerial Error Allegations From The Petitioners

#### Comment 4: Agifish's, CATACO's and Nam Viet's Cold Storage and Warehousing Expenses

The Petitioners argue that the Department erred in applying the surrogate value for cold storage warehousing in the net U.S. price calculation for the Agifish, CATACO, and Nam Viet. The Petitioners assert that the Department only included a single day of cold storage costs, and failed to multiply the rate for a single day by the number of days of storage reported by each company. The Petitioners argue that the Department should remedy this error by multiplying the cold storage surrogate value of \$0.0025 kg/day by the number of days the subject merchandise is kept in storage as reported by each company.

None of the Mandatory Respondents replied to this allegation.