products during the POI. The by-product sales shown at verification occurred several months prior to the POI. December was the only month of the POI where there was subject merchandise production and since Zishan could not support by-product sales for that month or any other month of the POI, we have no basis to conclude that it in fact sold its by-products during the POI.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1998, the date of publication of the preliminary determination in the **Federal Register** except for subject merchandise exported by Tak Fat or other companies not specifically named below. For merchandise exported by Tak Fat or by other companies not specifically named below, we are directing the Customs Service to continue to suspend liquidation of all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after May 7, 1998, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, in accordance with our critical circumstances finding. Furthermore, we will instruct the Customs Service to refund all bonds and cash deposits posted on subject merchandise exported by all the companies specifically named below, except Tak Fat, that was entered or withdrawn from warehouses for consumption prior to August 5, 1998.

The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd..	154.71	No
Tak Fat Trading Co.	178.59	Yes
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd..	126.16	No
Gerber (Yunnan) Food Co..	158.79	No
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation.	158.79	No
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp..	158.79	No
Putian Cannery Fujian Province.	158.79	No
Xiamen Gulong I&E Co., Ltd..	158.79	No
General Canned Foods Factory of Zhangzhou.	158.79	No
Zhejiang Cereals, Oils & Foodstuffs I&E Corp..	158.79	No
Shanghai Foodstuffs I&E Corp..	158.79	No
Canned Goods Co. of Raoping.	158.79	No
PRC-wide Rate	198.63	Yes

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 18, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–34704 Filed 12–30–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1756 or (202) 482–4136, respectively.

THE APPLICABLE STATUTE:

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR Part 351 (April 1998).

FINAL DETERMINATION:

We determine that certain preserved mushrooms (''mushrooms'') from Indonesia are being sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the amended preliminary determination (*Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 46776, September 2, 1998, the following events have occurred:

In September 1998, respondents submitted to the Department the 1997 annual reports for PT Indofood Sukses Makmur Tbk (''Indofood'') and PT IndoEvergreen Agro Business Corp. (''IndoEvergreen''). PT Zeta Agro Corporation (Zeta) provided the Department with supplemental information regarding its start-up adjustment claim.

PT Dieng Djaya (Dieng) and PT Surya Jaya Abadi Perkasa (Surya Jaya) (Dieng/Surya Jaya) and Zeta submitted to the Department on September 24, 1998, and

October 5, 1998, respectively, corrections to their previously submitted responses for errors that were found during their preparations for verification. During September and October 1998, we verified Dieng/Surya Jaya's and Zeta's questionnaire response. Following verification, we requested Surya Jaya to submit a revised sales tape to include previously unreported, transaction-specific bank charges incurred on U.S. sales. We also requested that Zeta submit a revised sales tape to include the above-mentioned charges, as well as revisions to brokerage and inland freight charges that were previously submitted on October 5, 1998. The requested revised data were submitted to the Department on November 5, 1998. On November 2 and 3, 1998, we issued our verification reports for Dieng/Surya Jaya and Zeta, respectively (*see* Memoranda to the File Regarding Verification of Sales and Cost Responses dated November 2, 1998 for Dieng and Surya Jaya, and November 3, 1998 for Zeta (''Dieng, Surya Jaya and Zeta Verification Reports,'' respectively).

The petitioners, respondents and Pillsbury Company, an importer of subject merchandise (''Pillsbury''), submitted case briefs on November 9, 1998. On November 10, 1998, petitioners withdrew their request for the public hearing which they submitted on August 7, 1998. Petitioners, respondents and Pillsbury submitted rebuttal briefs on November 13, 1998.

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following: (1) all other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is January 1, 1997, through December 31, 1997.

Fair Value Comparisons

To determine whether sales of mushrooms from Indonesia to the United States were made at LTFV, we compared export price (''EP'') to the normal value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

Furthermore, for Dieng/Surya Jaya, we calculated weighted-average EPs based on the combined set of Dieng's and Surya Jaya's U.S. sales, and then compared the consolidated set of weighted-average EPs with a single set of weighted-average NVs to properly derive the final weighted-average margin for the collapsed entity. (*See* Comment 5 in the ''Interested Party Comments'' section of this notice for further discussion.)

In this proceeding, we verified that none of the respondents had a viable home market or third country market. Therefore, consistent with our preliminary determination, we used CV as the basis for NV when making comparisons, in accordance with section 773(a)(4) of the Act.

Export Price

As in the preliminary determination, for both Dieng/Surya Jaya and Zeta we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated.

Dieng/Surya Jaya

We calculated EP using the same methodology as in the preliminary determination, with the following exceptions: We made a deduction to the starting price for discounts associated with certain sales reported by Surya Jaya (*see* Surya Jaya Verification Report at 14). We did not deduct foreign inland insurance charges incurred by Dieng because we verified that these costs were associated with imports of raw materials rather than sales of subject merchandise (*see* Dieng Verification Report at 22). We also did not make an adjustment for Dieng's claimed duty drawback, as Dieng could not provide evidence of linkage between import duties paid and taxes rebated during the POI. (*See* Comment 9 in the ''Interested Party Comment'' section for further discussion.)

Based on our verification findings, we made the following revisions to Dieng's U.S. sales database: (1) revised the product, style, grade, customer codes, and payment dates for certain transactions, where appropriate (*see* Dieng Verification Report at 19–20); (2) revised the POI per-unit bank charge, incorrectly reported as brokerage and handling expense in the response, to reflect a value-based allocation (*see* Dieng Verification Report at 22–23); (3) revised the reported POI per-unit freight charge (*see* Dieng Verification Report at 21–22); and (4) recalculated credit expense based on the revised payment dates for certain transactions and the short-term interest rate verified for Surya Jaya (*see* Dieng Verification Report at 25 and Surya Jaya Verification Report at 16).

Based on our verification findings, we made the following revisions to Surya Jaya's U.S. sales database: (1) changed the product code, style, customer code, grade, weight, control number, number of cans per carton, sales date, payment date, brokerage charge, and quantity for certain transactions, where appropriate (*see* Surya Jaya Verification Report at 14–15, and Exhibit 15 of the Dieng/Surya Jaya September 24, 1998 submission); (2) accounted for discounts granted on certain transactions, where appropriate (*see* Surya Jaya Verification Report at 14); and (3) recalculated credit expense based on the short-term interest rate and payment dates verified for Surya Jaya (*see* Surya Jaya Verification Report at 16).

Zeta

We calculated EP using the same methodology as in the preliminary determination. Based on our verification findings, we made revisions to Zeta's

U.S. sales database, where appropriate, to correct errors in: (1) the reported sales dates for certain transactions (*see* Zeta Verification Report at 11–12); (2) the reported shipment date, type of container, weight, product code, control number, number of cans per-carton, and quantity for certain transactions (*see* Zeta Verification Report at 20, and Zeta October 5, 1998 submission at 2; and (3) the per-unit expense amounts reported for insurance, inland freight, and brokerage/handling for certain transactions (*see* Zeta Verification Report at 20–22, and Zeta's October 5, 1998 submission at Exhibit 2).

Normal Value

After testing home market viability as noted above, we calculated NV as noted in the ''Price-to-CV Comparisons'' section of this notice.

Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication costs, selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. In accordance with section 773(e)(2) of the Act, we based selling expenses and profit on amounts incurred and realized in the foreign country. Because none of the respondents had a viable home market, we based selling expenses and profit on one of the alternatives under section 773(e)(2)(B) of the Act. Specifically, section 773(e)(2)(B)(iii) of the Act permits the Department to use any reasonable method. Therefore, we based selling expenses and profit on amounts derived from the 1997 financial statements of an Indonesian foods producer. *See* Comment 2 in the ''Interested Party Comments'' section of this notice.

Dieng/Surya Jaya

We made the following adjustments to the cost data submitted by Dieng/Surya Jaya:

Dieng

1. We calculated CV based on the cost of manufacturing (''COM'') during the POI, instead of the cost of goods sold (''COGS'') during the POI. *See* Comment 3 in the ''Interested Party Comments'' section of this notice.

2. We recalculated Dieng's per-unit CVs using a weight-based allocation methodology instead of relying on Dieng's standards to allocate costs. *See* Comments 6 and 7 in the ''Interested Party Comments'' section of this notice.

3. We calculated the cost of fancy and non-fancy mushrooms based on the weighted-average cost of Dieng's purchases of mushrooms and Dieng's own cost to produce mushrooms. *See* Comment 7 in the ''Interested Party Comments'' section of this notice.

4. We recalculated Dieng's general and administrative (G&A) expense ratio excluding selling expenses.

5. We recalculated the reported financing expense ratio excluding the double counting of short-term interest income.

Surya Jaya

1. We calculated CV based on the COM during the POI, instead of the COGS during the POI. *See* Comment 3 in the ''Interested Party Comments'' section of this notice.

2. We recalculated Surya Jaya's per-unit CV's using a weight-based allocation methodology instead of relying on its affiliated company's (Dieng's) standards to allocate costs. *See* Comments 6 and 7 in the ''Interested Party Comments'' section of this notice.

3. We recalculated the reported financing expense ratio, excluding bank charges associated with letters of credit directly related to U.S. sales of subject merchandise and including short-term interest income. *See* Comment 4 in the ''Interested Party Comments'' section of this notice.

4. We excluded from the reported cost of preserved mushrooms the offset for fresh mushroom sales revenues, and we allocated the resulting total costs equally to all mushrooms produced. *See* Comment 10 in the ''Interested Party Comments'' section of this notice.

Zeta

We made the following adjustments to the cost data submitted by Zeta:

1. We calculated CV based on the COM during the POI, instead of the COGS during the POI. *See* Comment 3 in the ''Interested Party Comments'' section of this notice.

2. We allocated growing costs to sales of fresh mushrooms based on weight rather than sales value as discussed in the preliminary determination at 41785.

3. We recalculated the cost of fancy and non-fancy mushrooms based on the weighted-average cost of Zeta's purchases of mushrooms and Zeta's own production cost of mushrooms. *See* Comment 13 in the ''Interested Party Comments'' section of this notice.

4. We reclassified certain claimed offsets to COM as G&A and combined these amounts with the G&A expenses verified and reported by Zeta as G&A in its audited financial statements to derive the G&A expense ratio applied to COM. *See* Comments 12 and 15 in the ''Interested Party Comments'' section of this notice.

5. We excluded the revenue and cost associated with casing soil and spawn compost sales from the reported cost of preserved mushrooms. *See* Comment 12 in the ''Interested Party Comments'' section of this notice.

6. We recalculated the reported financial expense ratio to include certain foreign exchange gains on accounts payable.

7. We recalculated CV using the net production quantity of preserved canned mushrooms instead of the reported gross production quantity. *See* Comment 16 in the ''Interested Party Comments'' section of this notice.

8. We denied Zeta's claimed start-up adjustment because it did not satisfy the criteria under section 773(f)(1)(C) of the Act. *See* Comment 11 in the ''Interested Party Comments'' section of this notice.

Price-to-CV Comparisons

For price-to-CV comparisons, we applied the same general methodology used in the preliminary determination. However, we also made a circumstance-of-sale adjustment, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), for U.S. bank charges which we verified to be direct selling expenses. (*See* Comment 4 in the ''Interested Party Comments'' section of this notice for further discussion.) In addition, we made a circumstance-of-sale adjustment for revised U.S. credit expenses, where appropriate.

Petitioners argue that the Department should use two averaging periods in its margin calculations to account for the effect of the devaluation of the Indonesian rupiah. Petitioners contend that CV differs significantly and dramatically over the course of the POI when exchange rates are taken into account.

We have continued to use POI averages for this final determination. For further details, please see the discussion in Comment 1 of the ''Interested Party Comments'' section of this notice, below.

Currency Conversion

As in the preliminary determination, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, ignoring fluctuations, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant

accounting and production records and original source documents provided by respondents.

Interested Party Comments

General Comments

Comment 1: Averaging Periods to Account for the Effect of Time on Price Comparability

Petitioners request that the Department reconsider its preliminary decision not to use two six-month averaging periods to calculate the dumping margins in this investigation. Petitioners urge the Department to depart from its standard use of a single weighted-average price to ensure that the currency conversion methodology does not distort the Department's calculations of the dumping margins. Petitioners point out that the first half of the POI (January-June 1997) was characterized by low inflation (approximately 1.5 percent) and virtually no depreciation of the currency (less than 3 percent), and that the second half of the POI (July-December 1997) was characterized by unexpected, sudden and dramatic inflation (approximately 8.1 percent) and extraordinary currency devaluation (over 60 percent). Petitioners state that the respondents' pricing practices remained the same, in that respondents did not take any affirmative actions to minimize or eliminate their dumping margins in the second half of 1997 in comparison to the first half of 1997. They argue, however, that with respect to the calculation of NV, when the rupiah is converted to dollars during the second half of the POI, the constant annual weighted-average will be as much as 65 percent lower than the identical CV that is converted during the first half of the POI. In this instance, petitioners state that an otherwise stable and constant CV changes dramatically over the course of the investigation period when converted to U.S. dollars simply because of the currency conversion method that is used. In face of these facts, petitioners argue that the merit of using a single weighted-average normal value for the entire POI must be carefully evaluated.

Petitioners cite a number of cases to demonstrate that the Department has the authority, under section 777A(d)(1)(A) of the Act, to use a variety of methods to compare prices in determining whether sales at LTFV exist. Moreover, petitioners note that the SAA at 843 recognizes that in determining sales comparability for purposes of inclusion in a particular average, time is a factor which may affect the comparability of sales and that the Department may resort to short time periods when NVs included in the averaging group differ significantly over the POI. The cases cited by petitioners to support their statement, include: the *Final Determination of Sales at Less Than Fair Value: Nitrocellulose from Brazil,* 55 FR 23120, June 6, 1990 (''*Nitrocellulose from Brazil*''), where the Department recognized and attempted to minimize the effect of severe currency devaluation; *Certain Fresh Cut Flowers from Colombia: Final Results and Partial Recission of Antidumping Duty Administrative Review* (62 FR 53287, October 14, 1997) (''*Colombian Flowers*''), where the Department revised its methodology in light of the ''devaluation of the Colombian currency;'' the *Final Determination of Sales at Less Than Fair Value: Fresh Kiwi Fruit from New Zealand,* 57 FR 13695, April 17, 1992 (''*Kiwi Fruit from New Zealand*''), where the Department expanded the POI to ensure ''an accurate measure of less than fair value sales;'' and the *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan,* 61 FR 14106, March 29, 1996 (''*PVA from Taiwan*''), where the Department established two averaging periods because of a ''distinct dividing line'' between price trends in the home market.

In addition to the cases previously cited, the petitioners further point out that the SAA at 841 notes that the ''goal'' of the Department's practice ''is to ensure that the process of currency conversion does not distort dumping margins.'' Citing *Melamine Chemicals* v. *United States,* 732 F. 2d 924, 929; 932 (Fed. Cir. 1984), and *Koyo Seiko,* 20 F. 3d 1156,1158 (Fed. Cir. 1994), petitioners assert that dumping margins should not be ''artificially'' eliminated because of unanticipated changes in the exchange rate given that the goal of the antidumping law is to protect the domestic industry from unfair trade practices.

In response to the respondents' contention prior to the preliminary determination that the decline in the rupiah did not cause any distortions or ''masking'' of dumping because the decline affected both respondents'' sales revenues and costs, petitioners maintain that: (1) the devaluation did not affect the respondents costs because the purchases of cans, which comprise a major portion of their costs, made after the rupiah devalued were excluded from their reporting; and (2) petitioners' foreign market research and respondents' past financial statements showed substantial losses until the rupiah devaluation at which point the respondents showed a profit.

Moreover, petitioners assert that the Department has on other occasions made special adjustments to a respondent's costs to account for ''extraordinary events'' that occurred during the POI or period of review to achieve a fair result, particularly when a company's own financial statements highlight the unusual and extreme nature of the event. (*See e.g., Notice of Final Determination of Sales at Less than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan,* 51 FR 38139, 38153 July 23, 1996.)

Petitioners conclude that if a respondent is dumping during a time of stable inflation and currency valuation, dumping should not be eliminated by of an extraordinary devaluation of the currency that otherwise has no impact on the respondent's pricing practices.

According to respondents, none of the cases cited by petitioners support their argument. Respondents assert that the statute and the regulations already provide a methodology for making currency conversions in the face of movements in exchange rates such as the devaluation at issue. Absent a rational explanation from petitioners as to why the currency conversion provisions are inadequate to handle exchange rate movements, respondents maintain that the Department should not use currency changes as a reason to depart from the averaging requirements. Respondents contend that the facts in all of the cases cited by petitioners can be distinguished from those in this investigation on the basis that respondents' U.S. prices did not ''move significantly'' during the POI.

Furthermore, respondents assert that no data are available to calculate CVs for two six-month averaging periods because the Department required the respondents to report CV on an annual basis. Unlike other cases such as *Static Random Access Memory Semiconductors From Taiwan,* 62 FR 8909, February 23, 1998, where the Department solicited and used quarterly price and cost data in its analysis in recognition of significant price movement during the POI, respondents claim that the Department did not solicit CV data on a semi-annual basis in this case allegedly because respondents' U.S. prices did not move significantly.

Finally, respondents state that the calculated NV in rupiah terms was stable during 1997, but that does not mean that respondents were not affected by the rupiah's decline. Respondents

point out that, first, the rupiah's decline meant that the interest and principal payments for U.S. dollar-denominated loans increased. Second, the rupiah's decline meant that production inputs based on imported material, such as cans, became more expensive. Respondents claim that contrary to petitioners' allegations, these higher can purchase costs were incorporated into Dieng's actual costs, which were used as the basis for Dieng's reported costs. Therefore, respondents maintain that comparing CV based on a full year, which includes the effects of the rupiah's decline, to two averages based on half-yearly prices, will create dumping margins where none existed. Based on the foregoing arguments, respondents conclude that the Department's regulations are sufficient to address currency exchange fluctuations and, therefore, the Department should adhere to its preliminary decision and continue to average prices over the entire POI.

Similarly, Pillsbury, an importer of subject merchandise, argues that the Department should continue to reject petitioners' request for two averaging periods after finding no evidence that there has been a significant change in the respondents' pricing or marketing behavior during the POI. Pillsbury points out that the Department has subdivided the POI in the limited circumstances where exporters behaved differently at different times in the investigation period. Pillsbury attests, based on its own knowledge, that the Department's finding of no change in the exporters' pricing or marketing behavior during the POI is correct. Pillsbury argues that the cases cited by petitioners to support their arguments are neither a precedent for the result they seek, nor broadly analogous to the circumstances of this investigation and, in fact, support rejection of petitioners' position.

DOC Position

Whether the Department should use shorter averaging periods where there is a significant decline in the value of the foreign currency over the POI is a complex issue. In such cases, we are concerned that using a single average NV for the POI could mask significant dumping during the period prior to the devaluation. Consequently, it may be necessary to use two or more averaging periods to avoid a distortion in the dumping analysis. However, we note that using two averaging periods in this case, as proposed by the petitioners, would have virtually no effect and therefore this issue is without consequence. Thus, we have declined to alter our methodology in this case. We will continue to examine in future cases whether it is appropriate to use two or more averaging periods, or some other method, to avoid distortion in the dumping analysis. We note that we have given further consideration to the reasons stated in the preliminary determination for using one averaging period. Although we continue to find that there are distinctions between *PVA from Taiwan* and this case, we believe that consideration of those distinctions is not sufficient. In addition to changes in selling practices, we believe that we should also consider other factors, such as prolonged large changes in exchange rates, in determining whether it is appropriate to use more than one averaging period.

Comment 2: Calculation of Profit and Selling Expenses for CV

Respondents argue that the Department improperly calculated profit and selling expenses in Dieng/Surya Jaya's and Zeta's CV calculation in the preliminary determination by basing its calculations on the selling expenses and profit contained in the 1996 financial statement of Indofood, an Indonesian food producer that does not produce preserved mushrooms. Respondents contend that the Department should have used the 1997 financial statements of IndoEvergreen, a producer of subject merchandise and a non-mandatory respondent in this investigation, as it is the only available information on the record which satisfies the statutory requirements under Section 773(C)(2)(B) of the Act for calculating CV profit and selling expenses based on alternative methods.

Pillsbury states that, regardless of whether the Department decides to use information from IndoEvergreen or Indofood in determining profit for the mandatory respondents, it should use the available 1997 profit data. According to Pillsbury, in determining an exporter's actual profit under 19 U.S.C. Section 1677b(e)(2)(A), the Department considers profit realized during the POI, not an earlier period. Pillsbury continues that, because 19 U.S.C. Section 1677b(e)(2)(B)(ii) and (iii) are designed as substitute methods to determine the exporter's profit, they too should reflect the POI.

Petitioners disagree, stating that the Department cannot use any financial statements from 1997 because: (1) neither IndoEvergreen nor Indofood recorded any net income (or profit) in 1997; and (2) the substantial depreciation of the Indonesian rupiah in 1997 significantly impacted the financial results of both companies, thus making their expenses and financial results aberrational and, thus, unusable for our purposes.

Specifically, petitioners contend that the Department cannot assign ''zero'' profit to CV in an investigation because profit, which reflects net income, is positive, and that the SAA directs the Department to include profit in the calculation of CV. While petitioners agree with Pillsbury that it is ''axiomatic'' that 1997 data would normally provide the appropriate basis for determining profit in this investigation, they state that there is no profit information from 1997 on the record of this investigation. Citing *Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan,* 62 FR 51427, October 1, 1997 (''*Collated Roofing Nails from Taiwan*'') and *Silicomanganese from Brazil: Final Results of Antidumping Duty Administrative Review,* 62 FR 37869, July 15, 1997 (''*Silicomanganese from Brazil*''), among other cases, the petitioners emphasize that zero profit is not a valid option. Therefore, the petitioners maintain that the Department must use profit data on the record from 1996. Moreover, petitioners assert that, as noted in the SAA, if the Department were to assign a ''zero'' profit rate to respondents based on the 1997 results of IndoEvergreen, then respondents would benefit ''perversely'' from their own unfair pricing because IndoEvergreen is not a mandatory respondent in this investigation, and is therefore subject to the ''all others'' rate which is determined by the weighted-average dumping margin of Dieng/Surya Jaya and Zeta.

Furthermore, petitioners argue that not only is there no profit on the record for the two 1997 financial statements submitted by respondents, but the results contained therein are aberrational and unusable for purposes of determining selling expenses and profit because they reflect extraordinary losses as a result of the depreciation of the Indonesian rupiah which affected both Indofood's and IndoEvergreen's performance in 1997.

In addition, the petitioners point out that just as IndoEvergreen's 1997 financial statement is unusable for the reasons previously stated, IndoEvergreen's 1996 financial statement is also unusable and was properly rejected by the Department in its preliminary determination because it was unaudited. Citing the *Final Determination of Sales at Less than Fair Value: Canned Pineapple Fruit from Thailand* 60 FR 29553, June 5, 1995 (''*CPF from Thailand*''), petitioners point out that it is the Department's practice to use audited financial

statements in the calculation of expenses and profit for CV because these statements provide the most accurate and reasonable basis for estimating actual expenses. Therefore, petitioners argue that the Department has only one option in the final determination, and that is to derive CV profit and selling expenses using the 1996 financial statements of Indofood.

DOC Position:

We agree with respondents, Pillsbury, and petitioners in part. While our general methodology for calculating CV profit did not change since the preliminary determination, we are using a different source of financial data to recalculate selling expense and profit amounts. As in the preliminary determination, we applied alternative three under section 773(e)(2)(B) of the Act to obtain an amount for selling expense and profit. As facts available, we used the 1997 financial statements of Indofood, adjusted as described below, in our calculation of CV selling expenses and profit. For G&A expenses, we have continued to use the actual expenses contained in the respondents' financial statements, as revised based on verification findings.

As noted correctly by petitioners, the use of a zero or negative profit in our CV calculation would be inconsistent with the SAA and the Department's past practice. (*See, e.g., Silicomanganese from Brazil* at 37877, where the Department determined that a positive amount for profit must be included in the CV calculation.)

While in this case the 1997 financial statements of both IndoEvergreen and Indofood record losses in 1997, we have determined that the use of Indofood's 1997 financial statement to calculate CV selling expenses and profit is reasonable after making certain appropriate adjustments. Indofood's financial statement represents financial results predominately on home market sales and thus, the resulting income reasonably represents a home market profit. In addition, while Indofood's 1997 income statement shows a net loss for the year, it was profitable in 1997 before taking into account an extraordinary expense that appears to relate to foreign currency losses associated with debt. The Department's practice with respect to foreign currency losses associated with debt is to recognize only the loss related to the current portion of the debt. (*See Fresh Atlantic Salmon from Chile,* 63 FR 31430, June 9, 1998 (''*Salmon from Chile*'').) Therefore, by including only the current portion of the foreign currency loss, the company's operations show a profit. We did not use the 1997 financial statement of IndoEvergreen, a producer of subject merchandise and a non-mandatory respondent in this investigation, because it represents financial results predominately on sales to the U.S. and third country markets. Thus, it was not possible to compute a home market profit figure from IndoEvergreen's financial statements.

Based on the foregoing, we conclude that Indofood's 1997 financial statement, adjusted as previously described, is the most reasonable alternative on the record of this proceeding on which to base the calculation of CV selling expenses and profit under section 773(e)(2)(B)(iii) of the Act because Indofood is a large processor of food products, its 1997 financial statement overwhelming reflects home market sales, and the information is contemporaneous with the POI.

Comment 3: Use of COM Versus COGS.

Petitioners argue that the Department must revise respondents' reported costs to properly reflect respondents' COM during the POI, not their costs of producing the goods sold during the POI which include historical costs of inventory from the prior period and exclude the cost of ending inventory. Petitioners contend that since COGS includes beginning inventory and net purchases during the period, but excludes ending inventory, respondents have effectively ignored the increased costs of imported materials associated with the devaluation of the rupiah during the last few months of the POI. Petitioners further argue that, pursuant to respondents' reporting methodology, the costs of a product that was produced during the POI, but not sold during the POI, are not included in CV. Petitioners assert that respondents should not be allowed to manipulate reported costs by including costs incurred prior to the start of the POI and excluding costs incurred towards the end of the POI. Finally, petitioners contend that the use of COM in the calculation of NV based on CV is a long-standing practice that has been required by the Department in virtually all cases.

DOC Position:

We agree with petitioners that the reported costs should be derived using the COM rather than the COGS. The Department's long-standing practice is to calculate the cost of production (''COP'') and CV based on the COM of the subject merchandise during the POI, where available, rather than on the COGS during the POI. The COM represents the cost to manufacture the product during the period. The Department does not use the COGS because it typically includes the value of merchandise held in inventory at the beginning of the period and excludes the value of merchandise produced but not sold during the period. The value of the merchandise sold from beginning inventory relates to a previous period. Additionally, COGS may include inventory values that have been adjusted (*e.g.,* inventory written down) to the lower of cost or market and, therefore, do not represent the actual production costs. As stated in section 773(e)(1) of the Act, the COM for CV shall include the COM ''during a period which would ordinarily permit the production of the merchandise in the ordinary course of business.'' Using the COM during the POI normally covers the period needed to produce the subject merchandise just prior to export and excludes the changes in inventory. Furthermore, only under case-specific circumstances does the Department extend the period used to calculate the COM outside of the POI (*e.g.,* if the production cycle of the subject merchandise extends beyond the POI). Although the CV section of the Act does not specifically address a cost reporting period, section 773(b)(2)(D) of the Act states that the recovery of costs is provided for ''[i]f prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production *for the period of investigation or review*'' (emphasis added).

Moreover, in this case, the respondents incorrectly derived the per-unit costs that were used in the preliminary determination by dividing the COGS by the units produced during the POI, not the units sold. To properly derive the per-unit costs, we divided the COM incurred during the period by the units produced during the period.

Therefore, in the final determination, we have adjusted the reported costs for each respondent based on the COM during the POI in accordance with our normal practice and our findings at verification. (*See* Calculation Memorandum for Dieng/Surya Jaya and Zeta, respectively, dated December 18, 1998.)

Comment 4: Zeta and Surya Jaya's Bank Charges

Petitioners argue that the bank charges found at verification that were incurred by Zeta and Surya Jaya should be deducted from U.S. price because the bank charges were directly related to the two companies' U.S. sales of subject merchandise.

Respondents note that if the Department deducts bank charges from

Surya Jaya and Zeta's U.S. sales prices, the Department should not include these bank charges in the financial expenses calculated for CV purposes.

DOC Position:

We agree with both petitioners and respondents in part. We verified that bank charges directly associated with U.S. sales of subject merchandise were incorrectly included in the calculation of the financial expense for Surya Jaya and the SG&A expense for Zeta. (*See* Surya Jaya Verification Report at 16, and Zeta Verification Report at 23, respectively.) Accordingly, we have made a circumstance-of-sale adjustment to NV for the bank charges at issue in accordance with section 351.410(c) of the Department's regulations, and have excluded them from the calculation of the financial expense and G&A expense for CV purposes, where applicable, for each company.

Dieng/Surya Jaya Comments

Comment 5: Failure to Calculate Weight-averaged EP for Dieng/Surya Jaya

Respondents maintain that the Department failed to treat affiliated producers, Dieng and Surya Jaya, as a single collapsed entity in the preliminary determination based on the calculation methodology employed. Specifically, respondents assert that, although the Department calculated one set of weighted-average NVs for both Dieng and Surya Jaya, it incorrectly calculated a separate set of weighted-average EPs for Dieng's U.S. sales and Surya Jaya's U.S. sales. The Department then proceeded to calculate separate margins for Dieng and Surya Jaya, and averaged these two margins to derive the preliminary margin for both companies. In order to comply with section 777A(d)(1)(A)(i) of the Act which was the Department's stated intent in the preliminary determination, respondents argue that the Department should calculate a single set of weighted-average EPs based on the combined set of U.S. sales of both Dieng and Surya Jaya, and then compare these consolidated U.S. sales with a single set of weighted-average NVs (in this case CVs) to properly derive the final weighted-average margin for the collapsed entity.

DOC Position:

We agree with respondents and have adjusted our calculations as appropriate as explained in the ''Fair Value Comparisons'' section of this notice.

Comment 6: Use of Dieng's Standard Cost System and Reported Cost Allocation

Petitioners argue that the Department should reject Dieng's cost allocation methodology because it is based on standard costs that yield illogical and inaccurate results. To support their argument, petitioners present an analysis of the difference in the reported adjusted or ''actual'' cost and the standard cost for the direct material costs of a four-ounce product. Petitioners argue that the analysis shows that the difference between the ''standard'' cost and the ''actual'' cost cannot be considered reasonable or accurate and, therefore, should be rejected. Petitioners point out that, at verification, when the Department compared the per-unit standard cost for several products from the ending inventory to the reported adjusted per-unit costs, it noted inconsistencies for all products, and that the variance percentage was negative for some products and positive for others. According to petitioners, such inconsistencies should not exist between products in which the only difference is the total net drained weight of the container size. According to petitioners, the first major problem is not the direction or sign of the variance, but the magnitude of the variance. The second major problem is that Dieng's standard costs have not been used historically by Dieng in the normal course of business, which is in violation of the statute and the SAA. With respect to the first problem, petitioners state that Dieng offers no explanation as to the gross disparities between standard costs and its reported ''actual'' costs, other than the fact that total costs overall do not vary as dramatically as per-unit costs. Petitioners argue that the issue is whether Dieng's standard costs and its allocation of these overall costs to each individual product are accurate. With respect to the second problem, petitioners point out that according to the verification report, the ''simple'' standard cost system was not designed or implemented until the end of 1995, just one year prior to the beginning of the POI.

Petitioners assert that the Department's practice is to calculate costs on the basis of records kept by the respondent if the Department is satisfied, among other things, that the respondent's records reasonably reflect the costs of producing the subject merchandise. If the Department determines that a company's normal accounting practices result in a unreasonable allocation of production costs, petitioners assert that the Department will make certain adjustments or may use alternative methodologies that more accurately capture the costs incurred. Petitioners maintain that Dieng's standard cost allocations have not been used historically in the normal course of business and do not reasonably reflect the costs associated with the subject merchandise, as the above analysis indicates. Therefore, petitioners contend that the Department should adjust Dieng's reported costs using the weight-based methodology proposed in petitioners' case brief and used in the Chilean preserved mushrooms investigation.

Respondents argue that the Department should continue to use the reported costs of Dieng/Surya Jaya for purposes of calculating the final dumping margin because the Department has verified that Dieng's standard cost system is reliable and reasonably reflects the actual costs incurred by Dieng during the POI. Respondents further state that the Department's statements in the Dieng verification report questioning the reliability of Dieng's cost standards based on the observation that ''individual standard costs are adjusted by different percentages and different directions'' are flawed because they are based on incorrect data or misapplied accounting principles. Respondents maintain that petitioners ignore the substantial record evidence demonstrating the reliability of Dieng's standard cost system, which has been fully verified and audited by an independent auditor.

Respondents contend that petitioners' comments should be rejected for the following specific reasons: First, respondents maintain that a comparison of total per-unit standard costs to total per-unit actual costs is inappropriate because it overlooks the effects of the individual variances calculated for each cost element. According to respondents, the approach suggested in the verification report and by petitioners would require the calculation of a uniform variance based on the total actual cost and the total standard cost, but the application of this uniform variance would inappropriately cut across all cost elements and distort the individual variances specifically calculated for each cost element. This approach would be inconsistent with Department practice, as exemplified in *New Minivans from Japan: Final Determination of Sales at Less Than Fair Value,* 57 FR 21937, May 26, 1992 (''*Minivans from Japan*''), where the Department used individual variance factors for materials and for labor and overhead and adjusted the reported production costs for each minivan

model to reflect the use of the revised variance factors for each cost element; and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom*, 60 FR 10900, February 28, 1995, where the Department rejected application of plant-wide variances to all products (instead of product-specific variances) because it overstated costs for non-subject merchandise. Respondents continue that Dieng never reported total standards and Dieng's cost accounting system does not use the total standards that the verification report used for comparison.

Second, respondents assert that the questions raised in the Department's verification report rely on the erroneous proposition that variances from a standard occur in one direction, which is inconsistent with cost accounting principles. Respondents explain that, by definition, variances from a standard are not adjusted in the same direction. Respondents state that Dieng complied with the requirements of the Department's questionnaire and reported all of the variances calculated for each cost element (material, labor, variable and fixed overhead) in its normal standard cost system. Dieng then calculated a percentage variance that was applied uniformly to the standard cost established for that element for all of Dieng's products. According to the respondents, the analysis in the verification report ignored the variances calculated at each cost element and instead compared only total per-unit variances. Although the variance for each cost element is uniformly applied to all products, respondents explain that the overall variances calculated by the method used in the verification report (*i.e.*, the sum of all cost elements) will be favorable for some products, but unfavorable for other products. Respondents point out that this result is not inconsistent with the variances calculated for elements which are uniform. In respondents' opinion, the conclusions suggested in the verification report provide no legitimate basis on which to question the reliability of Dieng's standard cost accounting system.

Third, respondents maintain that, regardless of the magnitude of the variances, the Department verified that Dieng's standard costs distributed all of Dieng's actual costs as tied to the audited financial statement. Accordingly, respondents argue that Dieng's reported production costs accurately reflect Dieng's actual costs because they were based on Dieng's reliable standard cost allocation system. Moreover, respondents point out that the magnitude of the variance for each cost element does not determine the reliability of a company's standard cost system. To support their statements, respondents cite to *Final Results of Antidumping Duty Administrative Review: Porcelain-on-Steel Cookware from Mexico*, 62 FR 42496, August 7, 1997 (''*Porcelain-on-Steel Cookware from Mexico*''), where the Department refused to use facts available because of the magnitude of the respondent's reported variances and determined that the respondent's variances were allocated to a sufficient level of product-specific detail to satisfy the Department's questionnaire requirements. Respondents maintain further that petitioners' suggestion that the Department ignore the variances calculated for each cost element and apply an overall variance is contrary to Department practice and fundamental accounting principles. According to the respondents, record evidence shows that the total of all standard costs is very close to the total of actual costs reported. In this regard, respondents point out that after adjusting the reported cost data for the difference between COM and COGS, as noted in the Department's verification report, Dieng's actual material costs (and thus total actual costs) increase, resulting in a small overall variance between standard and actual costs. Respondents interpret this result to mean that the total standard material costs virtually match the actual costs incurred by Dieng, and that the material cost system accurately measures Dieng's production costs.

Fourth, respondents argue that petitioners ignore the Department's statutory preference for using the existing cost system of a respondent if it is consistent with local Generally Accepted Accounting Principles (''GAAP'') and is not distortive pursuant to section 773(f)(1)(A) of the Act. Respondents point out that Dieng's independent auditor and the Department both confirmed that Dieng's accounts are consistent with the GAAP of Indonesia. Respondents conclude that in light of these facts, the Department's practice requires the acceptance and use of Dieng's standard costs to calculate the CV of Dieng/Surya Jaya.

Pillsbury argues that the Department should continue to base its CV calculation on the standard costs reported by Dieng in the final determination because the Department verified that these costs are used in the normal course of business, are consistent with GAAP in Indonesia, and reasonably reflect the cost of producing the subject merchandise in Indonesia.

DOC Position:

We agree with petitioners that the per-unit costs generated by Dieng's standard cost system are distorted and cannot be relied upon to form the basis of CV for the final determination. In accordance with section 773(f)(1)(A) of the Act, the Department normally relies on data from a respondent's normal books and records where those records are prepared in accordance with the home country's GAAP, and where they reasonably reflect the costs of producing the merchandise. Normal GAAP accounting practices provide both respondents and the Department with a reasonably objective and predictable basis by which to compute costs for the merchandise under investigation. However, in those instances where it is determined that a company's normal accounting practices result in a mis-allocation of production costs, the Department adjusts the respondent's costs or uses alternative calculation methodologies that more accurately capture the actual costs incurred to produce the merchandise. *See, e.g., Minivans from Japan* at FR 21952 (adjusting a respondent's U.S. further manufacturing costs because the company's normal accounting methodology did not result in an accurate measure of production costs); and *CPF from Thailand* at FR 29559 (where the Department rejected the use of Dole's normal cost allocation methodology because it did not ''reasonably reflect'' the cost of producing the merchandise).

In the instant case, we find that Dieng's standard costs do not, as noted below, reasonably allocate costs to individual products. While we agree with respondents that the variances for individual cost elements may be favorable or unfavorable and that the net effect of variances could make individual unit standard costs move in different directions, the magnitude of Dieng's individual variances seriously calls into question the reasonableness of the individual product standard costs. In the *Porcelain-on-Steel Cookware from Mexico* proceeding cited by Dieng, the Department accepted the large variances because inflation in Mexico was greater than 50 percent during the period and therefore large price variances in one direction were expected. However, the magnitude of the variances in Dieng's system cannot be explained by inflation. Extraordinarily large variances, by definition, mean that the standard costs that went into deriving those variances do not reasonably reflect the actual costs

incurred to produce the individual products. These large variances occurred even though the standards were new, which raises questions as to whether the standards were accurately developed by Dieng. Furthermore, our observations at verification imply that they were not accurately developed. We note that the individual cost elements of Dieng's per-unit standards, such as direct labor, indirect labor, energy, and depreciation, are identical to each other and do not vary according to the specific requirements of each cost element necessary to produce the individual products. Additionally, Dieng used the price of the two mushroom qualities (*i.e.*, fancy and non-fancy) it purchased as the standard cost of all mushrooms in its derivation of per-unit standards, without factoring in its own production cost. This methodology artificially allocates more mushroom costs to products that use fancy mushrooms (*i.e.* mushrooms sold whole or in slices). The reliability of Dieng's standard costs is further undermined by Dieng's apparent unfamiliarity with calculating variances. As Dieng admits, it improperly calculated the variance between standard and actual materials by using the COGS rather than the COM, and now argues that, after this problem is corrected, the remaining variance is reasonable for the reasons previously explained. We disagree that after this adjustment the materials variance is reasonable for the reasons previously explained. Furthermore, Dieng does not address the other large variances (*i.e.* direct labor, indirect labor, energy, and depreciation).

We also disagree with Dieng's argument that it is not a problem that the individual variances are large because the overall variance is not great. The fact that the inaccurate standards for each major cost element add up to a total that is closer to the actual total costs does not support the claim that individual standard costs are reliable. The issue here is the allocation of costs between products or, in other words, the reliability of the standards, not the inclusion of total costs. We are not persuaded by the fact that there was no objection to the use of its standard costs noted by the auditors in Dieng's financial statements. Consistent with CPF from Thailand and *Salmon from Chile*, the absence of the auditor's direct comment does not indicate reasonableness of those standards for CV calculation purposes; rather it indicates that either the standards used to value ending inventory were lower than market prices or any mis-statement was not significant to the financial statement's presentation.

For the final determination, we rejected the use of Dieng's standard costs and derived CV using a weight-based allocation methodology, as explained further in *Comment 7* below. For the same reasons, we have not used Dieng's standard costs to derive Surya Jaya's per-unit costs, as reported, but have derived CV using a weight-based allocation methodology.

Comment 7: Revision of Dieng's Submitted Costs Using Production Quantity and Total Costs

Petitioners argue that the Department should reject Dieng's cost allocation methodology since it yields unreasonable results, and revise Dieng's submitted costs to reasonably reflect the costs of producing the subject merchandise using a weight-based allocation. For example, petitioners point out that a careful review of Dieng's production process shows that Dieng's claim that whole mushrooms ''require longer actual time to process'' than pieces and stems is due to the fact that the ''workers set aside the whole mushrooms until there are sufficient mushrooms to manufacture whole mushrooms (or sliced mushrooms) in a production batch.'' Therefore, the petitioners assert that the only extra ''time'' involved is the time mushrooms must be ''set aside,'' which, despite Dieng's claim to the contrary, does not imply that the production time is any longer. Petitioners suggest that the Department revise the submitted costs by allocating Dieng's reported production costs using a drained-weight methodology. Petitioners state that such an allocation methodology based on net drained weight produced is consistent with the Department's chosen methodology in the companion investigation of preserved mushrooms from Chile, where respondent's reported allocation methods were rejected by the Department. Petitioners also note that Dieng's affiliate Surya Jaya improperly used Dieng's standard costs even though it did not use a standard cost system to record its own costs. Since Dieng's standard cost system is unreliable and Surya Jaya does not use a standard cost system, petitioners argue that Surya Jaya's costs must also be restated according to the methodology previously described.

Respondents argue that petitioners failed to provide an alternative allocation methodology that would be more reasonable than Dieng's standard cost system. According to respondents, petitioners' proposal to use a weight-based allocation of costs is not more accurate because a weight-based allocation does not properly account for the cost and processing time differences in producing the different types of canned mushrooms. Specifically, respondents point out that: (1) petitioners have used the purchase price of cans during the POI which is inappropriate and inconsistent with the Department's practice of using consumption costs; (2) petitioners' methodology would ignore the additional time and costs associated with the processing of fancy mushrooms in manufacturing sliced and whole mushrooms; (3) Dieng's standard cost system differs from that of the respondent in the Chilean preserved mushrooms case, because unlike Dieng, the Chilean respondent had no established cost accounting system and had to develop a methodology; and (4) Dieng's standard costs are an acceptable and accurate means to report costs that are specific to each grade of subject merchandise sold to the United States, whereas allocating costs purely on the basis of weight would render the product characteristics useless in this investigation

Respondents further contend that use of a weight-based allocation would result in the creation of dumping margins simply by comparing a uniform per-kilogram cost to products, the actual costs and prices of which reflect more than weight. Respondents point out that the Department has recognized that a weight-based allocation is not appropriate in the context of a processed agricultural product. Respondents state, for example, that in *CPF from Thailand*, at FR 29560), the Department rejected a proposal to depart from the respondents' normal cost allocation in favor of a weight-based allocation. In that case, respondents state that the Department explained that a weight-based allocation of pineapple fruit costs would not be appropriate, and that ''using weight alone as the allocation criteria sets up the illogical supposition that a load of shells, cores, and ends [used to produce juice products] cost just as much as an equal weight of trimmed and cored pineapple cylinders used to produce canned pineapple fruit.'' Respondents state that, for mushrooms, a weight-based allocation would make the analogous illogical presumption that a load of fancy mushrooms used to produce whole or sliced preserved mushrooms costs just as much as an equal weight of non-fancy mushrooms when the record evidence shows that fancy and non-fancy mushrooms have different acquisition costs.

DOC Position:

We agree with petitioners that Dieng's reported costs are unreliable and have recalculated Dieng's per-unit costs using a weight-based methodology. Because Surya Jaya's submitted costs were based on Dieng's standard cost system which we have rejected for purposes of the final determination, we have also recalculated Surya Jaya's costs using a weight-based methodology.

As discussed in *Comment 6* above, we have determined that Dieng's standard cost system is not reliable because the allocation methods used in Dieng's system distort costs. While Dieng argues we must use its standard costs to account for processing differences, we note that one reason the standards were rejected was that they do not differentiate costs based on product differences. Moreover, we agree with petitioners that the set-aside time in canning whole mushrooms does not imply that the production time for whole mushrooms is longer. In fact, sliced mushrooms and pieces and stems require an additional processing step.

We also disagree with Dieng's assertion that there are cost differences in specific grades of mushrooms. As stated by company officials during verification, the cost of producing different qualities (*i.e.*, grades) of mushrooms is the same. (*See* Dieng Verification Report at 7.) The actual cost of growing mushrooms is the same regardless of the value of the different grades of mushrooms. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, October 22, 1998 (''*Mushrooms from Chile*''). Mushrooms are grown in batches where the natural process results in product of varying size and quality. Mushrooms can be either sold directly after harvest or be processed further and sold in several different forms and containers. The production processes may be manipulated by the producer, within the confines of the natural growing process, to obtain different yields on certain sizes and qualities. Furthermore, mushrooms are sold by weight. Because the identical process, climate conditions, and production factors are applied to fancy and non-fancy mushrooms, the actual cost to grow each kilogram of mushroom is the same regardless of whether it is sold fresh or preserved, whole or in a variety of other forms. In *Salmon from Chile* at FR 31416, as in the instant case, the Department found that, ''with minor exceptions, each company's recorded costs of the subject merchandise did not vary by grade or weight band [(*i.e.*, size)] * * * and that the costs of certain of these matching groups are the same.'' In citing to *Ipsco* v. *United States,* 965 F2d 1056 (Fed. Cir. 1992) (''IPSCO'') in the *Salmon from Chile* case, the Department stated that ''as with premium salmon, prime-grade pipe was of higher quality and, as such, commanded a higher price in the marketplace (*Id.* at 1058). In the proceeding underlying the IPSCO decision, the Department compared U.S. sales of prime and limited service grade pipe to CVs based on the actual costs of each grade, which were identical. Therein the respondents objected to this methodology vis-a-vis comparisons involving U.S. sales of lower grade of merchandise. The Court of Appeals for the Federal Circuit (''CAFC'') rejected this claim, ruling that the Department had 'calculated constructed value precisely as the statute directs' in basing CV on the actual cost of production for each grade (*Id.* at 1060).'' *See Salmon from Chile* at FR 31416–31417.

Furthermore, Dieng incorrectly cites to *CPF from Thailand* to support its position that a weight-based allocation is not appropriate. In that case, the cost of producing the pineapple was allocated between products, not between different grades of the same product. Different grades of mushrooms are not separate and distinct products, they are different grades of the same product.

Consistent with *Mushrooms from Chile,* we have determined that an allocation methodology based on weight is reasonable for the following reasons: (1) both Dieng/Surya Jaya and Zeta track the mushrooms through the production process by weight, not by number of mushrooms or by grade; (2) mushrooms are sold by weight; (3) virtually the same activities and expenses are incurred in growing each kilogram; and (4) regardless of whether the mushrooms are sold as preserved or fresh product, they are substantially the same product (*i.e.*, they are not joint products). Simply stated, the cost-generating elements of growing mushrooms for both preserved and fresh, ''fancy'' or ''non-fancy,'' whole or pieces, large or small mushrooms are identical; and canned whole mushrooms may be, and often are, re-processed into pieces and stems. On this basis, we are relying upon a weight-based methodology because it reasonably reflects the costs of producing the subject merchandise. The respondents' argument that a weight-based methodology would render the product characteristics useless is incongruous because the actual costs for each grade of mushrooms are the same and would not be distorted by a weight-based allocation.

As to Dieng's argument concerning the value of purchased mushrooms, although Dieng does purchase different grades of mushrooms at different costs, the differences in purchase prices should not be used to create artificial differences in the cost of Dieng's own mushroom production. First, we note that a product's market price does not always follow its cost of production. Second, in this case, it is Dieng's supplier that is benefitting from the higher price commanded by higher quality mushrooms and Dieng is incurring the cost of having to buy these mushrooms at higher market prices. Dieng's cost of its purchased mushrooms is its purchase price, but its cost of its self grown mushrooms is its growing costs. Therefore, we have weight averaged Dieng's cost of producing mushrooms with its acquisition price for purchases of different grades of mushrooms in the final determination. (*See* December 18, 1998, Calculation Memorandum.)

Comment 8: Revision of Dieng's Can Cost

Petitioners contend that the Department should revise Dieng's reported can costs to include the higher prices paid by Dieng during the latter part of the POI after the depreciation of the rupiah in accordance with the Department's past practice. Citing such cases as *CPF from Thailand,* petitioners state that the Department has determined in past cases that it is inappropriate to exclude the cost of material purchases toward the end of the POI in its submitted costs. According to petitioners, Dieng shows in its response the actual prices it paid for cans during the POI, but does not use these prices in reporting its can costs. Petitioners further contend that Dieng records its raw materials and indirect materials inventory at a moving average cost. Therefore, petitioners argue that Dieng's can cost should be reported on a moving average cost basis, which would include the higher prices of cans purchased toward the end of the POI and exclude the historical cost of beginning inventory, in accordance with the Department's cost reporting objective to determine the COP during the POI.

Respondents state that petitioners' proposal is contrary to Department practice and unnecessary. According to respondents, record evidence demonstrates that Dieng's can purchases in late 1997 were incorporated into Dieng's reported can cost. Moreover, respondents state that using Dieng's 1997 can purchase cost would

unreasonably ignore the fact that Dieng consumed cans from inventory that included pre-POI purchases. Citing *Certain Welded Stainless Steel Pipe From the Republic of Korea* 57 FR 53693, November 12, 1991, respondents maintain that the Department has consistently held that purchase prices do not accurately value material input costs because they fail to account for the cost of material already in inventory and actually used during the POI. Finally, respondents assert that no adjustment to can costs is necessary because Dieng allocated the actual costs of cans—which is a moving average cost that incorporates both the change in raw materials inventory and all purchases during the fiscal year (POI)—in its CV calculations.

DOC Position:

We agree with the respondents. As stated in *Comment 3* above, it is the Department's practice to use the cost of manufacturing the subject merchandise during the POI. Dieng's reported cost of cans appropriately included the cost of cans consumed in producing the subject merchandise during the POI, rather than the cost of cans purchased during the POI. The Department uses the replacement cost of an input only in high inflation situations. Because we did not find high inflation in Indonesia during the POI, we have continued to use the cost of cans consumed in producing the subject merchandise during the POI in calculating the COP.

Comment 9: Duty Drawback Adjustment Claim

Given that Dieng could not provide any evidence of linkage between duties paid and taxes rebated for excise taxes paid on imported glass jars during the POI, petitioners argue that the Department should reject Dieng's duty drawback adjustment claim.

DOC Position:

We agree with petitioners. It is the Department's practice to allow an upward adjustment to U.S. price for duty drawback if the respondent meets the Department's long-standing two-part test: (1) that there be a direct link between the import duty and the rebate granted; and (2) that the respondent has sufficient imports of raw materials used in the production of the final exported product to account for the drawback received on the exported product. At verification, Dieng could not provide any evidence of a nexus between import duties paid and taxes rebated during the POI (*see* Dieng Verification Report at 2 and 25). Because Dieng did not satisfy part one of the two-part test, we have rejected its claim for a duty drawback adjustment in the final determination.

Comment 10: Offset to COM and G&A for Non-subject Merchandise

Petitioners argue that the Department incorrectly indicates in its verification report that certain items identified by Surya Jaya to offset production costs, such as fresh mushrooms and used compost sales, bank interest, or reevaluation of ending inventory, should probably be reclassified to G&A expenses. Petitioners state that, for some of these items, there is no information on the record to indicate that they are related to the subject merchandise. As such, the petitioners claim that it would be inappropriate to offset G&A expenses with such items. The petitioners also state that should the Department decide to offset Surya Jaya's G&A expenses with the items that were used to offset production costs, it must make sure that the same items will not be used as offsets to COM.

DOC Position:

We agree with petitioners in part. Consistent with our normal methodology, we have continued to allow used compost sales as an offset to COM, as they constitute revenue from the sales of scrap resulting from the production of subject merchandise. (*See e.g., Collated Roofing Nails From Taiwan*, 62 FR 51427, October 1, 1997.) Additionally, we have continued to include Surya Jaya's adjustments of raw material costs (*e.g.*, revaluation of ending inventory) in the COM. However, we have excluded the revenue from fresh mushroom sales from Surya Jaya's offset calculation (and reallocated growing costs) because they constitute sales of a primary product, not a scrap resulting from production of the subject merchandise. Furthermore, we included the short-term bank interest income cited by petitioners in the financing expense calculation as an offset to interest expense in accordance with our normal practice.

Zeta Comments

Comment 11: Zeta's Start-up Adjustment Claim

Zeta contends that it has demonstrated that it is a producer using new production facilities and that production levels were limited by technical factors associated with the initial phase of production. Consequently, it should be granted a start-up adjustment under section 773(f)(1)(C) of the Act in the final determination. Zeta argues that the Department's preliminary determination, which rejected Zeta's claim for a start-up adjustment because Zeta failed to identify suitable technical factors limiting production levels in the initial phase of production, is inconsistent with the statute and fails to consider the nature of Zeta's operations.

First, Zeta asserts that its claimed start-up cost relates to new production facilities, explaining that its mushroom growing facilities and cannery were not mere improvements to existing facilities but were built new and were not substantially completed until after the POI. Second, in accordance with 19 CFR section 351.407(d)(2) and (3), Zeta states that it has properly quantified the start-up period and has provided evidence that establishes the end of the start-up period which marks the end of the initial phase of commercial production. In addition to production units, Zeta states that it provided data demonstrating that the capacity utilization rates for January through June 1997 were substantially lower than those of July through December 1997.

Third, Zeta maintains that its technical factors relate to the integrated nature of Zeta's operations for producing preserved mushrooms. Unlike many of the U.S. preserved mushroom producers, Zeta explains that it is an integrated producer, growing fresh mushrooms that are processed into preserved mushrooms. According to Zeta, fresh mushrooms are not merely raw material for the canning operations, but are actually an intermediate state of production in the process of producing canned mushrooms. Zeta states that it reported its production costs based on the following direct cost centers: spawn making, compost manufacture, casing soil manufacture, growing and harvesting, and cannery. Accordingly, Zeta argues that the Department must not consider Zeta's canning operations to be the only production stage relevant to start-up operations but, rather, only the final part of Zeta's production process which begins with fresh mushroom growing operations (spawn, compost, casing soil, growing, harvest).

Moreover, Zeta asserts that the integrated nature of its operations was part of Zeta's original business development plan. According to Zeta, the feasibility study of its corporate plan reflects several important facts relevant to the Department's analysis of Zeta's start-up adjustment. As outlined in the feasibility study, Zeta sought funds to complete Stage I (which planned for the construction of Zeta's cannery and growing facilities) and Stage II (which planned for the construction of additional growing facilities for the independent farmers) of the construction of production facilities. According to respondent, completion of

both Stage I and Stage II was necessary to provide Zeta with a sufficient supply of mushrooms to achieve full production levels for both growing and canning. Zeta asserts that Stage II construction was not substantially completed until February 1998, because Zeta encountered substantial engineering difficulties in the construction of the foundations for the growing facilities due to heavy rainfall and unexpected drainage and runoff problems. Zeta explains further that the delay in Stage II construction due to engineering adjustments prevented Zeta from reaching full capacity for its fresh mushroom growing operations. As a result, Zeta claims that it was unable to reach full commercial production levels of preserved mushrooms until the fresh mushroom growing facilities were substantially completed. Zeta claims further that its start-up period did not end until July 1997 when it had completed enough growing facilities to achieve significant production levels.

Zeta concludes, based on the foregoing points, that it has fully satisfied the statutory criteria for a start-up adjustment. Zeta proposes that the Department grant a start-up adjustment by substituting the unit production costs incurred with respect to the merchandise at the end of the start-up period for the unit production costs incurred during the start-up period, and that the Department amortize the start-up costs over the shelf-life of preserved mushrooms (*i.e.*, 24 months).

Pillsbury argues that Zeta qualifies for a start-up adjustment to account for its new facilities' mushroom growing shortfall in the first half of 1997 which resulted from technical factors that limited the volume of fresh mushrooms that were grown and, therefore, the amount of preserved mushrooms that could be produced. Pillsbury argues that the Department's characterization of Zeta's start-up problem in the preliminary determination as a ''shortage of raw materials'' implies that the production of canning-quality mushrooms is a different operation than the production of certain preserved mushrooms. Pillsbury states further that Zeta's questionnaire response shows that the production of mushrooms is an integral part of the canning process, and thus growing the requisite number and quality of mushrooms is part of the production process, not a precursor to it.

Petitioners disagree, stating that the integrated nature of Zeta's operations is not in dispute, nor is it germane to the question of start-up. Petitioners argue that the difficulties encountered at some other point in the production process are simply part of poor business planning, and are not related to the start-up costs incurred to build the new canning facility. Rather, petitioners state that the engineering difficulties experienced by Zeta during the construction of the growing facilities were attributable to weather-related conditions that affected the growing facility construction, not the new canning facility. According to petitioners, technical factors that limit production at the cannery facility might include things such as difficulty getting new machinery to operate properly, or engineering problems encountered with canning the goods. Petitioners point out that the SAA makes clear that the limited production must not be related to factors unrelated to start-up, such as ''chronic production problems.'' Petitioners argue that based on Zeta's own admission, the limit in production had more to do with weather-related problems rather than the actual operation of the canning facility. Accordingly, petitioners maintain that the Department should reject Zeta's claimed start-up adjustment in the final determination.

DOC Position:

We disagree with Zeta that a start-up adjustment is warranted in this case. Section 773(f)(1)(C)(ii) of the Act authorizes adjustments for start-up operations ''only where a producer is using new production facilities or producing a new product that requires substantial additional investment, and production levels are limited by technical factors associated with the initial phase of production'' during the POI. Based on our analysis of the information Zeta submitted to support its claim, we have determined that Zeta's production levels were not limited by technical factors associated with the initial phase of production.

Prior to the POI, Zeta built its own mushroom growing facility and its own canning facility. Both of these facilities were in operation prior to the POI. Zeta stated that, to fulfill the government's requirement of local participation in new agricultural industries, a certain amount of Zeta's mushrooms had to be sourced from local farmers. As a result, an unaffiliated cooperative of mushroom farmers built a mushroom growing facility, to which Zeta provided its technical expertise. The mushroom growing facility owned by this unaffiliated cooperative is the facility that experienced the delays in construction (*i.e.*, due to the building of retaining walls as a result of heavy rainfall which caused excessive erosion of the foundations for the growing facility) that Zeta claims constituted the technical factor (*i.e.*, shortage of fresh mushrooms) that limited Zeta's canned mushroom production. Therefore, Zeta is not claiming a start-up adjustment based on technical factors experienced at its own facility, but rather the technical factors associated with the unaffiliated farmer cooperative's growing facility.

We disagree with Zeta that our preliminary determination failed to consider the nature of Zeta's operations. In making this determination, we followed the guidelines set forth in the SAA at page 837, which provide that the analysis will vary from industry to industry and product to product, requiring a fact-intensive inquiry. Similarly, the preamble to the Department's proposed regulations states that the start-up criteria ''are somewhat generalized because they must allow for any number of start-up operation scenarios'' (61 FR 7339, February 27, 1996).

We acknowledge that Zeta's growing and canning facilities are new production facilities. However, Zeta's growing and canning facilities were completed before the beginning of the POI and its commercial production levels were not limited by technical factors associated with the initial phase of its commercial production, as evidenced by significant production levels during the POI. (*See* the Verification Report at page 16.) We also note that the ''technical factors'' alleged by Zeta relate solely to the operations of Zeta's unaffiliated mushroom supplier. Zeta's own preserved mushroom operations include only its mushrooms growing operations and canning facility, not those of an unaffiliated supplier. We do not believe that technical difficulties experienced at an unaffiliated supplier's facility qualify as sufficient ''technical factors'' under section 773(f)(1)(C) of the Act. The result of the technical difficulties experienced by the cooperative—the lack of supply of the raw material input to Zeta's canning factory and the resulting underutilization of capacity—does not satisfy the criteria for a start-up adjustment.

Moreover, Zeta reached commercial production levels before the POI and increased production during the POI. While Zeta may not have been able to utilize its canning facility at a higher production rate, we note that the SAA at page 836 states that ''the attainment of peak production levels will not be the standard for identifying the end of the start-up period, because the start-up period may end well before a company achieves optimum capacity utilization.''

See also Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8930, (February 23, 1998.

In sum, section 773(f)(1)(C)(ii) of the Act establishes that both prongs of the test must be met to warrant a start-up adjustment. In this case, we found that Zeta failed to meet the second prong of the test and, accordingly, have denied Zeta's claim for a start-up adjustment in the final determination.

Comment 12: Items Used to Offset Zeta's Material Production Costs

Zeta contends that items related to the production of subject merchandise (i.e., spawn compost and casing soil sales revenue, and scrap mushrooms sales revenue) should be offset against Zeta's material production costs; and items unrelated to the production of subject merchandise (*i.e.*, ''gain from claim'' and ''loss on others'') should not be offset against production costs, but rather should be offset against Zeta's G&A expenses.

With respect to revenues from the sale of spawn compost and casing soil, Zeta explains that it sold these items to independent farmers who used them to grow fresh mushrooms. Zeta further explains that it purchased fresh mushrooms from the independent farmers, offsetting its accounts payable to the farmers for fresh mushroom purchases by the value of its sales of spawn compost and casing soil to the farmers. Zeta states that the Department has recognized that the revenue from sales of intermediate products used in the production of subject merchandise such as spawn compost and casing soil must be taken as an offset to the COM regardless of whether these sales are classified as ''scrap'' or ''rejected'' merchandise. Although the Department's verification report notes that revenue from Zeta's sales of spawn compost and casing soil was not generated from scrap or rejected merchandise, Zeta argues that the Department must also acknowledge that Zeta received revenues that were used directly to offset Zeta's material input costs in Zeta's accounting system. Zeta points out that the Department has made similar adjustments to production costs for revenue associated with production inputs in past cases (*e.g.*, *CPF from Thailand* at 29566, and *Certain Fresh Cut Flowers from Colombia*, 59 FR 15159, (March 31, 1994). Accordingly, Zeta contends that the Department should offset Zeta's material costs with the revenue from the sales of spawn compost and casing soil. Finally, with respect to the revenue received from the sale of scrap mushrooms, Zeta argues that the Department should use this revenue as an offset to Zeta's production costs, consistent with the Department's past practice (*e.g, Chrome Plated Lug Nuts from Taiwan*, 56 FR 36130, 36134, July 31, 1991).

Petitioners argue that Zeta's sales of spawn compost and casing soil should not be used to offset its production (material) costs, and that the revenue from the spoiled or sample mushrooms should only be allowed as an offset to Zeta's material costs if it was reported in Zeta's books and accounted for in its reported production costs. With regard to Zeta's claim for sales of spawn compost and casing soil as an offset to production costs, the petitioners assert that these ''sales'' did not generate actual revenues for Zeta because Zeta and the independent farmers were involved in a barter arrangement where Zeta traded its spawn compost and casing soil for fresh mushrooms. Therefore, since Zeta's accounts receivable for sales of spawn compost and casing soil were offset by its accounts payable for purchases of fresh mushrooms, petitioners contend that there were no actual revenues or payments involved. Furthermore, petitioners state that Zeta's reference to *CPF from Thailand* and *Certain Fresh Cut Flowers from Colombia* in support of its argument that the sales revenue in question related to material costs should be used to offset production costs is not relevant because Zeta's claimed offset is not based on revenue actually received, as its accounts receivable was offset by its accounts payable under the barter arrangement. Petitioners claim that pursuant to the Department's practice, claims of credits, rebates or offsets should always be tied to the actual amounts received, not the amount claimed. Petitioners point out that in *CPF from Thailand* respondent's offset for sugar refunds was rejected by the Department because it was based on amounts earned, not received. Accordingly, petitioners maintain that the Department should not account for Zeta's ''artificial'' sale of spawn compost and casing soil as an offset to Zeta's material input costs. Petitioners further state that even if the Department were to grant such an offset, however, the offset should not be allocated only across canned mushrooms, but must be allocated across all mushroom products, including both fresh and canned mushrooms.

Finally, petitioners argue that certain items such as ''gain from claim'' and ''loss on others'' included in Zeta's production cost offset calculation should not be reclassified as G&A expenses, as suggested in the Department's verification report. Because there is no information on the record to indicate that the ''gain from claim'' is related to the subject merchandise, petitioners contend that it would be inappropriate to offset G&A expenses with this amount if it is not related to the subject merchandise. However, petitioners assert that should the Department decide to offset Zeta's G&A expense with certain items that were used to offset production costs, it should be careful to not use the same items as offsets to production costs.

DOC Position:

We agree with petitioners and respondents in part. With respect to the revenue from scrap mushrooms (*i.e.* mushrooms falling to the floor or samples taken during the pre-canning selection process, and mushrooms selected for quality control purposes in the post-canning process), we have allowed it as an offset to COM, as it constitutes revenue from the sale of scrap resulting from the production of subject merchandise, consistent with our normal practice. (*See Collated Roofing Nails from Taiwan*.) With respect to the revenue from spawn compost and casing soil sales, however, we have not allowed it as an offset to production costs because it relates to sales of a primary product (*i.e.*, not scrap or a by-product). We note that these sales constitute a separate line of business and Zeta plans to continue to sell these items on a regular basis to the unaffiliated farmers. If we were to include these revenues as an offset to production costs, as Zeta suggests, we would be reducing the cost of preserved mushrooms by any profit earned on the sales of spawn compost and casing soil. Although these products are raw materials in the production of preserved mushrooms, Zeta's sales of spawn compost and casing soil are made to unaffiliated parties and, therefore, not used in the production of Zeta's preserved mushrooms. While the sales of spawn compost and casing soil should not offset the cost of producing preserved mushrooms, the cost of producing these products for sale should also not be included in Zeta's preserved mushrooms production costs. Therefore, we have excluded an amount for the cost of sales of spawn compost and casing soil from Zeta's reported mushroom cost. Furthermore, we disagree with petitioners that because the sales of spawn compost and casing soil to the independent farmers and the purchases of mushrooms from the independent farmers are cleared through the same account, they are not

actual sales and purchases. Zeta practices accrual accounting and as such recognizes the sales or purchases when booked. We found at verification that these transactions were independent and therefore have treated them accordingly.

With respect to the ''gain from claim'' included in respondent's COM offset calculation, we verified that this item related to revenue obtained from an insurance claim on a shipment of subject merchandise, which is more appropriately classified as an offset to G&A expenses, rather than production costs. (*See* Zeta Verification Report at 26.) Therefore, we have excluded it from Zeta's production cost offset calculation and included it in the calculation of the G&A expense ratio. We have treated the ''loss on others'' which relates to safety deposit box rental charges incurred during the POI as G&A expenses, and removed it from the COM offset calculation because it relates to the general expenses of the company rather than production costs. We also verified that the ''loss on claim'' included in the COM offset calculation as a reduction to the offset amount related to payment made to a U.S. customer for excess glass jar wastage. Because the cost of containers are included in the COM for purposes of our dumping analysis in this case, we have continued to include the ''loss on claim'' in the calculation of COM. (*See* Zeta Verification Report at 26.)

Comment 13: Cost of Producing Fancy Mushrooms and Non-fancy Mushrooms

Zeta argues that the Department should value its mushroom inputs consistent with Zeta's treatment of these costs in its accounting system. Zeta argues that the Department confirmed at verification that Zeta's costs for fancy mushrooms differ from the costs for non-fancy mushrooms. Contrary to the Department's statements in its verification report, Zeta asserts that it actually over-reported costs of fresh mushrooms in its submitted costs and provided a cost analysis to support this claim in its November 9, 1998 case brief at pages 23 and 24. Therefore, Zeta argues that adjusting the costs for an under-allocation of costs alleged in the Department's verification report is therefore unwarranted.

Petitioners disagree, arguing that the Department should correct Zeta's understatement of fresh mushroom costs based on its verification findings. According to petitioners, Zeta restated its average per-unit cost of internally grown mushrooms to reflect the difference in value (*i.e.*, purchase price) between fancy and non-fancy mushrooms purchased from third parties. Further, petitioners maintain that Zeta's contention that its methodology overstates costs rather than understates costs is illogical because it uses the per-unit mushroom costs that have already been ''restated.'' Therefore, petitioners contend that Zeta's suggestion that its costs were over-reported is unsupported by the evidence on the record and should be rejected by the Department.

DOC Position:

We disagree with Zeta. While the Department verified that Zeta purchases fancy and non-fancy mushrooms at different prices, it incurs and records one average cost for growing its own mushrooms. Zeta's proposed method would create an artificial difference in cost for its own production. As discussed in Comment 7 above, the cost of producing different grades of mushrooms are the same. We note that Zeta purchases only a small quantity of mushrooms and produces the rest of its mushrooms.

We disagree with the analysis of costs set forth in Zeta's case brief. In its case brief, Zeta incorrectly added the quantity of fancy and non-fancy mushroom production. In fact, Zeta transposed the total fancy and non-fancy quantities and therefore used the incorrect amounts in attempting to show the total mushroom cost reported. As stated in the verification report at 2 and 15, Zeta under-allocated mushroom cost in the reported costs. For the final determination, we have allocated Zeta's total mushroom cost based on the weighted-average cost of its mushroom purchases and its own mushroom production costs. (*See* Comment 7, above, for further discussion.)

Comment 14: Cost Allocation Based on Adjustment Factors Derived from Difference in Processing Time

Zeta contends that the Department should accept Zeta's reported cost allocation that is based on its normal accounting records which incorporate time study standards that reflect differences in processing time between mushroom styles (*i.e.*, whole, sliced, and pieces and stems). Zeta argues that it complied with the Department's request to report costs on a product-specific basis. Accordingly, given that its accounting and production records incorporated the processing time studies on a product-specific basis, Zeta maintains that the Department should use Zeta's reported cost allocation because it satisfies the Department's requirement. Furthermore, according to Zeta's cost allocation methodology is consistent with the Department's requirement that respondent allocate costs to subject merchandise at the greatest level of specificity permitted by the respondent's regularly-kept production records, whether or not such allocation is actually used in the company's accounting system. Among other cases, respondents cite *Certain Cold-Rolled and Corrosion Resistant Carbon Steel Flat Rolled Products: Final Results of Antidumping Administrative Review* (62 13195, March 18, 1998) and *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea* (63 FR 40404, July 29, 1998) to support the proposition that respondents can allocate costs on a more detailed, product-specific level than that in their normal cost accounting methodology in order to report costs on a control number-specific basis, as required by the Department. Zeta argues that its cost allocation methodology is also consistent with its production process. For example, Zeta states that it has higher costs for fancy mushrooms than non-fancy mushrooms, and that petitioners' methodology would ignore the additional time and cost associated with the processing of fancy mushrooms in manufacturing sliced and whole mushrooms. Zeta argues that the Department's failure to use Zeta's adjustment factor in Zeta's cost allocation would render the product characteristics useless in this investigation because allocation of costs strictly on the basis of weight, as proposed by the petitioners, would mean that all products would have the same per-unit weight cost which is incorrect. Zeta contends that since its normal production records report the processing time studies on a product-specific basis, and since Zeta's submitted cost allocations comply with the Department's requirement that costs be reported on a product-specific basis, Zeta concludes that the Department should accept Zeta's reported cost allocations.

Petitioners maintain that the Department should reject Zeta's cost allocations which have not been historically used in its accounting system in the normal course of business. Petitioners assert that Zeta admits that its reported costs are an ''adaptation'' of its actual cost accounting system. Petitioners state that Zeta's time study standards were never verified by the Department and, more importantly, these studies represent a deviation from Zeta's normal cost accounting system. Petitioners contend that the Department confirmed at verification that these allocations are not, and have not been, used by Zeta in its normal course of

business, and that they were created solely for this investigation. According to petitioners, this violates well-established Department policy, the SAA and the U.S. antidumping law. Petitioners cite *Salmon from Chile* at 31432, stating that the Department's long-standing practice, as codified in section 773(f)(1)(A) of the Act, is to rely on data from a respondent's normal books and records which are prepared in accordance with home country GAAP and reasonably reflect the costs of producing and selling the subject merchandise.

Petitioners assert that Zeta admits that its normal system distinguishes costs by container and drained weight, and not by grade or style, and that there are no meaningful distinctions in the production process between products. Petitioners point out that Zeta states in its response that the cost system does not distinguish between different types of products, and other than the slicing of the mushrooms into sliced mushrooms or pieces and stems, the canning process is identical for all mushrooms. In particular, petitioners contend that Zeta's application of the price differential between ''fancy and non-fancy'' fresh mushrooms sourced from unaffiliated farmers to its own internal costs of production for raw mushrooms is unreasonable because Zeta purchased such a small percentage from unaffiliated farmers and there was no distinction between fancy or non-fancy styles. Petitioners maintain that since Zeta has declared on the record of this investigation that ''the canning process is identical for all mushrooms,'' there is no need for a novel allocation of labor and overhead costs based on the unsupported and unverified claim that whole mushrooms require more time to process than sliced mushrooms. Because Zeta has failed to demonstrate that its normal books and records do not reasonably reflect the costs associated with the production of the subject merchandise, the petitioners state that the Department should reject Zeta's submitted cost allocations and calculate CV based on Zeta's normal books and records, using the methodology proposed by petitioners in its case brief and consistent with the method used in *Mushrooms from Chile.*

DOC Position:

We agree with petitioners. The time studies used by Zeta to adjust reported costs for differences in processing are not used by Zeta in the normal course of business and therefore cannot be used in the final determination. In accordance with section 773(f)(1)(A) of the Act, the Department will normally use a company's allocation methodology ''if such allocations have been historically used'' by the producer. In this case, we verified that Zeta does not allocate costs based on differences in processing times in its normal books and records. Moreover, Zeta did not substantiate processing differences at verification, and the Department did not verify the validity of the time studies or the claim that they are used at all in Zeta's normal production records. Therefore, we have continued to calculate Zeta's costs using a weight-based methodology and have disregarded Zeta's costs adjusted for processing differences.

Comment 15: Use of Revised G&A Rate Calculated in the Verification Report

Zeta argues that the Department, in its verification report, erroneously classified selling expenses incurred at its Jakarta sales office as G&A expenses, claiming that this classification is inconsistent with the findings of the Department recorded elsewhere in Zeta's verification report. Zeta argues that classification of these expenses as selling expenses is consistent with Department practice which has always classified general expenses related to a selling operation as selling expenses. To support its claim, respondent cites a number of cases, (*e.g., Certain Cold-Rolled Carbon Steel Flat Products From Germany: Final Results of Antidumping Duty Administrative Review,* 60 FR 65264, December 19, 1995) where the Department stated that it classified expenses associated with running a sales office or related to sales activities as indirect selling expenses, rather than non-sales-related G&A expenses. Accordingly, Zeta contends that the Department should continue to calculate Zeta's G&A expense factor as it did in the preliminary determination, separating the selling expenses described above from the G&A expenses.

Petitioners reply that Zeta's allegation is in contradiction with Zeta's own audited financial statement which classified the exact amount as G&A expenses. Petitioners state that it is the Department's long-standing policy to use audited financial statements in the calculation of SG&A because they are more reliable than a company's own estimated or reported figures (*see CPF from Thailand* at FR 29565). Petitioners point out that the Department reviewed and verified Zeta's classification of selling and G&A expenses at verification and tied the SG&A expenses from Zeta's trial balances to its audited financial statements. Petitioners argue that, in light of the above facts, the Department should reject Zeta's claim and use the verified figure in the calculation of Zeta's G&A expenses.

DOC Position:

We disagree with Zeta. Section 773(e)(2)(A) of the Act states that CV should include an amount incurred for G&A expenses in connection with the production and sale of the subject merchandise. Based on representations made by Zeta officials and our observations at verification, the expenses Zeta recorded in its audited financial statements as G&A expenses are expenses related to the company operations, not solely to support the company's selling functions. Therefore, we have calculated Zeta's G&A expenses using the amount verified and recorded by Zeta as G&A in its audited financial statements.

Comment 16: Adjusting Zeta's Costs to Account for the Difference Between Gross and Net Production Quantity

Petitioners argue that the Department should adjust Zeta's reported costs upward to account for the difference between net and gross production because the Department discovered at verification that Zeta understated its reported costs by allocating total costs over the gross production of the subject merchandise, rather the net production. Petitioners contend that by using this method, Zeta has improperly allocated total costs over waste, rejects, and samples.

DOC Position:

We agree with petitioners. In order to include yield losses in the canning process, we have derived the per-unit cost using the net production of canned mushrooms. Using this methodology allows us to allocate the cost of waste, rejects, and samples to those products available for sale. We have adjusted respondent's cost in accordance with our findings at verification (*see* Zeta Verification Report at 2).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to begin suspension of liquidation for PT Dieng Djaya/PT Surya Jaya Abadi Perkasa of all entries of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final determination in the **Federal Register**. We are also directing the Customs Service to continue to suspend liquidation for PT Zeta Agro Corporation of all entries of subject merchandise from Indonesia, that are

entered, or withdrawn from warehouse, for consumption on or after August 5, 1998 (the date of publication of the preliminary determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
PT Dieng Djaya/PT Surya Jaya Abadi Perkasa	7.94
PT Zeta Agro Corporation	22.84
All Others	11.26

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–34705 Filed 12–30–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate From Sweden: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: On November 16, 1998, the Department of Commerce (the Department) published the final results of review in the antidumping duty administrative review on stainless steel plate from Sweden (63 FR 63706). The review covers two manufacturers/exporters (Avesta Sheffield AB (Avesta) and Uddeholm Tooling AB, Bohler-Uddeholm Corporation and Uddeholm Limited (collectively Uddeholm)) of the subject merchandise to the United States and the period June 1, 1996 through May 31, 1997.

On November 19, 1998, pursuant to section 351.224(c) of the Department's regulations, Avesta filed a ministerial error allegation regarding the Department's implementation of the constructed export price (CEP) offset in calculating a margin for Avesta in the final results of the review. The Department is publishing these amended final results to correct this ministerial error.

EFFECTIVE DATE: December 31, 1998.

FOR FURTHER INFORMATION CONTACT: John Totaro or Nithya Nagarajan, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1374 and (202) 482–4243, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998), 62 FR 27296 (May 19, 1997).

Ministerial Error in the Final Results of Review

For purposes of calculating the antidumping margin for Avesta for the POR, as published in the final results, the Department's margin calculation program calculated a CEP offset in accordance with the Department's regulations. However, Avesta alleged that the Department's final results margin calculation program defined the indirect selling expense variable INDEXUS but did not similarly define the variable INDEXPU. Avesta argues that the Department incorrectly tied the CEP offset to INDEXPU instead of INDEXUS. As a result, Avesta's CEP offset was always equal to zero. Avesta alleged that, as a result of this ministerial error, Avesta did not receive the CEP offset to which it was otherwise entitled. Petitioners have not objected to this allegation of ministerial error.

The Department examined the margin calculation program, and we agree with Avesta that this is a clerical error within the meaning of 19 CFR 351.224(f), *i.e.*, a clerical error in connecting the calculation of CEP offset to the variable INDEXPU instead of INDEXUS in the margin calculation program. We have corrected the program so that the CEP offset calculation properly references the variable INDEXUS, rather than INDEXPU.

Amended Final Results of Review

Upon correction of the ministerial error described above, Avesta's margin, as published in the **Federal Register** on November 16, 1998, has been revised from 25.05 percent to 22.67 percent for the period June 1, 1996 through May 31, 1997. The final results margin for Uddeholm remains unchanged. We will instruct the Customs Service accordingly.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service. For assessment purposes, we have calculated importer-specific duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total entered value of sales examined during the POR. Individual differences between U.S. price and normal value may vary from the percentages stated above. As a result of this review, we have determined that the importer-specific duty assessments rates are necessary.

Furthermore, the following deposit requirements shall be effective upon