The Department disagrees with respondents' assertion that this methodology is contrary to Zenith. We have acted reasonably in adopting the methodology set forth in Federal-Mogul, which was found by the CIT in Federal-Mogul to be consistent with Zenith, the higher court holding. (See also, The Torrington Co. v. United States Slip Op. 94–51 (CIT March 31, 1994), wherein the CIT upheld the new methodology for the value added tax adjustment without comment). See also, Avesta Sheffield, et al, v. United States, Slip Op. 94–53 (CIT March 31, 1994).

*Comment 6:* CINSA states that the Department failed to properly calculate the amount of IVA in COP. CINSA claims that the Department added the IVA collected by CINSA on HM sales to cost rather than the IVA incurred by CINSA on the purchase of direct raw materials, variable overhead and packaging materials and reported in its COP response.

Petitioner does not oppose the Department's methodology but suggests that it would achieve the same objectives by comparing the home market sales with COP, exclusive of IVA, as used in the prior administrative review of this case. In the event the Department adjusts the amount of tax included in COP, petitioner notes that the difference in the tax treatment would yield a corresponding increase in CINSA's profit on home market sales. Therefore, if the Department makes the COP change requested by CINSA, the Department must also increase profit for CV to reflect CINSA's reduced COP

Department's Position: Value added taxes are paid on inputs and, therefore, are costs incurred in production. Upon the sale of the product, value added taxes are reimbursed to CINSA by the ultimate consumer. Any amount of tax which is in excess of the amount reimbursed is payable to the Mexican government. The Department's calculations must reflect the economic reality that CINSA does not receive a benefit from collecting and paying IVA. Therefore, because COP is compared to home market price which includes the entire IVA paid, to be neutral, our calculations of COP must take into account the entire IVA paid (a portion of which is paid on the inputs, and the remainder of which is due to the government). The amount of tax is based upon information reported in the home market sales tape which includes both components. See, Mexican Cooking Ware Fourth Review Final Results.

*Comment 7:* CINSA argues that, in its price-to-price comparison, the Department incorrectly adjusted the U.S. price to account for the assessed

countervailing duties. CINSA states that, pursuant to 19 U.S.C. 1677a(d)(1)(D), the Department must add to U.S. price any countervailing duties imposed on the subject product to offset an export subsidy. CINSA points out that for all U.S. sales made between January 1, 1991 and June 5, 1991 the applicable rate is 2.18 percent. Thus, for all U.S. sales made between those dates, the Department should add 2.18 percent to U.S. price. Instead, the Department limited the period in which that amount was assessed from January 1, 1991 to January 5, 1991.

Petitioner contends that the Department is only required to add to the U.S. price the amount of any countervailing duty "imposed" to offset an export subsidy. Petitioner states that there has been no countervailing duty imposed, because upon liquidation of the entries at issue, CINSA will be returned the "assessed amount."

*Department's Position:* We agree with respondent and will make the correction.

*Comment 8:* CINSA alleges that the Department failed to make the several corrections to information contained in CINSA's July 15, 1992, supplemental submission, which was provided in a timely fashion:

A. In its COP/CV computer file, CINSA overstated the COP of certain items by failing to divide the cost of these items by four to reflect that four items were contained in one package. CINSA states that the Department should make this division.

B. CINSA also overstated the weight of article 1065910 by a factor of four. To derive the per unit weight, CINSA asserts that the Department must divide the weight by the number of items contained in the package.

C. Further, CINSA omitted the weights in certain items reported in its home market and U.S. sales tapes. CINSA asserts that the Department should include these corrected weights in the computer tape, since the weights are necessary to calculate the freight charges attributable to both home market and U.S. sales of these items.

D. CINSA reported the incorrect number of units sold and the unit price for one home market sale of item number 1018001, and for one home market sale of item number 1061701, CINSA reported the incorrect unit price. CINSA asserts that the Department should make these corrections.

Department's Position: We agree with respondent. Since the above corrections were submitted in a timely manner, we will make those corrections where appropriate. *Comment 9:* CINSA asserts that the COP data reported for item numbers 10158 and 19177 in its COP sales tape submission were based on the cost of producing two units and not based on a single cost. Therefore, CINSA stated that the Department should use the cost information included in the submission to derive the single unit COP for these items.

Petitioner argues that there is no evidence of this fact on the record to support CINSA's claim.

Department's Position: We agree with petitioner. There is no evidence in the administrative record satisfactorily demonstrating that these two items were not based on single unit costs.

*Comment 10:* Petitioner contends that CINSA incorrectly weight-averaged factory overhead included in the COP and CV. Petitioner states that the respondent weight-averaged using 13 months rather than the 12-month review period.

CINSA replies that the methodology employed for weight-averaging cost of certain production factors is reasonable, since any adjustment to this calculation would have a *de minimis* impact on CINSA's COP and any final antidumping margin.

Department's Position: The methodology used by the respondent is inappropriate because the review period covers 12 months, not 13. However, the required adjustments to correct cost of manufacturing would have an insignificant impact on COP and no impact on the margin. Therefore, the Department did not adjust for the miscalculation.

*Comment 11:* APSA claims the antidumping duty margin reported in the preliminary results published in the **Federal Register** does not accurately reflect the weighted-average margin calculation released to counsel by the Department in its disclosure documents.

*Department's Position:* We agree and have made the correction.

Comment 12: Petitioner contends CINSA's reported inland freight expenses should be disallowed, since it includes its factory-to-warehouse presale inland freight expenses. Petitioner argues that factory-to-warehouse freight charges incurred on home market sales cannot be deducted as direct sales expenses in purchase price comparisons because those charges were incurred prior to the date of sale. Petitioner cites The Ad Hoc Committee of AZ–NM–TX– FL Producers of Gray Portland Cement v. United States, CAFC Opinion 93-1239 (Jan 5, 1994) and Gray Portland Cement and Clinker From Japan (59 FR 6614; February 11, 1994). The Court of Appeals for the Federal Circuit (CAFC)