Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

California Spotted Owl EIS; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice announces an open house in which the public is invited to participate in information exchange regarding alternatives being considered in the California Spotted Owl Draft Environmental Impact Statement, as they affect the Tahoe National Forest area.

DATES AND TIME: March 3, from 12 p.m. to 9 p.m.; March 4, from 8 p.m. to 12 p.m.

ADDRESSES: Northern Mine Building, Nevada County Fairgrounds, 11228 McCourtney Rd., Grass Valley, CA.

FOR FURTHER INFORMATION CONTACT: Julie Lydick, Nevada City Ranger District, 631 Coyote Street, Nevada City, CA, 95959–6003. (916) 265–4531.

SUPPLEMENTARY INFORMATION: The Forest Service will release a Draft Environmental Impact Statement (DEIS) to amend the Pacific Southwest Regional Guide and Sierran Province Forest Plans with new management direction for the California Spotted Owl. The purpose of this meeting is to exchange information with the public regarding the Draft Environmental Impact Statement and the preferred alternative.

The meeting will be informally structured. Members of the team that prepared the DEIS will be available to answer questions and discuss the DEIS. Visual media depicting the alternatives and selected environmental consequences will be displayed.

Janice Gauthier,

CA OWL EIS Team Leader.

[FR Doc. 95–2834 Filed 2–3–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–801]

Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses From Colombia

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

EFFECTIVE DATE: February 6, 1995.

FOR FURTHER INFORMATION CONTACT: James Maeder or James Terpstra, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3330, or (202) 482–3965.

Final Determination

We determine that fresh cut roses (roses) from Colombia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930 (the Act), as amended as of 1994. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the notice of amended preliminary determination on October 4, 1994 (59 FR 51554, October 12, 1994), the following events have occurred.

On September 27, 1994, respondents requested a postponement of the final determination. On September 28, 1994, the Department agreed to postpone the final determination until January 26, 1994.

On September 29 and 30, 1994, we received responses to the Department's supplemental questionnaires from Grupo Sabana (Sabana), Grupo Intercontinental (Intercontinental), the Floramerica Group (Floramerica), Flores la Fragancia (Fragancia), and Grupo Sagaro (Sagaro).

On October 3–11, 1994, Grupo Benilda (Benilda), Grupo Tropicales (Tropicales), Grupo Prisma (Prisma), Grupo Bojaca (Bojaca), Intercontinental, Sabana, the Andes Group (Andes), Grupo Papagayo (Papagayo), Grupo Clavecol (Clavecol), Sagaro, Agrorosas, Flores Mocari S.A. (Mocari), and Rosex submitted preverification corrections to their respective responses.

Department of Commerce personnel conducted sales and cost verifications of the respondents' data in Miami from October 9, 1994, through November 3, 1994.

On October 7, 1994, the petitioner submitted comments regarding the verification of the respondents' sales responses.

In October 1994, Rosex and Andes submitted corrections identified at the beginning of verification.

On November 7, 1994, the Caicedo Group (Caicedo), submitted certifications from the Government of Colombia that four members of its group did not export during the POI.

On November 10, 1994, Arnold and Porter, counsel for Asocolflores a growers organization that represents 14 of the 16 individual respondents, met with Assistant Secretary for Import Administration Susan G. Esserman regarding a suspension agreement, (*See* memorandum to file, November 11, 1994).

On November 14, 1994, Beall's Roses, Inc., an American importer, entered an appearance as an interested party in this investigation.

On November 18, 1994, Asocolflores submitted four reports, the Botero Report, the Tayama Report, the Lewis & Sykes Report, and the Hortimarc Report addressing to the issue of whether or not third country prices should be used in calculating foreign market value (FMV).

The Department's sales and cost verification reports for Sabana, Sagaro, Rosex, Floramerica, Mocari, Prisma, Fragancia, and Tropicales were issued from November 16 to 29, 1994.

On November 28, 1994, the petitioner supplied the Department with comments concerning the four third country pricing reports supplied by the respondents on November 18, 1994.

In November and December 1994, Rosex, Benilda, Floramerica, Intercontinental, Prisma, Bojaca, Sagaro, Tropicales, and Fragancia submitted revised sales listings and computer tapes.

In September 1994, both the petitioner and the respondents requested a public hearing. Case and rebuttal briefs were received from the petitioner and the respondents on December 2, 6, and 12, 1994. On December 13, 1994, we held a public hearing.

Scope of Investigation

The products covered by this investigation are fresh cut roses, including spray roses, sweethearts or miniatures, intermediates, and hybrid teas, whether imported as individual blooms (stems) or in bouquets or bunches. Roses are classified under subheadings 0603.10.6010 and 0603.10.6090 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is January 1, 1993, through December 31, 1993. (*See* the April 14, 1994, memorandum from the team to Richard W. Moreland).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all roses covered by this investigation comprise two categories of ''such or similar'' merchandise: culls and export-quality roses. None of the respondents reported sales of culls in the United States. Therefore, no comparisons in this such or similar category were made. Regarding export quality roses, we compared USP to CV (*See* the CV section of this notice).

Fair Value Comparisons

To determine whether sales of roses from Colombia to the United States were made at less than fair value, we compared the United States price (USP) to the CV for all respondents, as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

United States Price

For sales by all respondents except Floramerica, we based USP on purchase price, in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when exporter's sales price (ESP) methodology was not otherwise indicated.

In addition, for all respondents, where sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with section 772(c) of the Act.

For all U.S. prices, we calculated USP using weighted-average U.S. prices by rose type, where the appropriate data was available. (*See* General Comments 4 and 5).

During the POI, some respondents paid commissions to related parties in the United States. However, we made no adjustment for these payments. Instead, we subtracted the actual indirect selling expenses incurred by the related party in the United States because we determined that to account for both commissions and actual expenses would be distortive. (*See* General Comment 7).

Finally, for those respondents who sold through related parties in the United States and who did not report inventory carrying costs on their ESP sales, we calculated these costs by using an inventory carrying period of seven days. According to a public report by Harry K. Tayama, PhD., submitted by the respondents in this investigation, this is an appropriate period. For companies with sales to unrelated parties, we accepted that inventory carrying costs were included in U.S. credit expenses.

We made company-specific adjustments, as discussed below:

1. Agrorosas S.A.

For Agrorosas, purchase price was based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, brokerage and handling charges, U.S. import duties. We also deducted U.S. direct selling expenses, including credit expenses, U.S. indirect selling expenses, Colombian indirect selling expenses, and commissions to unrelated parties. We recalculated foreign inland freight and Colombian indirect selling expenses based on verification findings.

2. Caicedo Group

For Caicedo, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts and other price adjustments, unrelated party commissions, foreign inland freight, air freight, U.S. import duties, U.S. inland freight, repacking expenses, and Colombian indirect selling expenses incurred on ESP sales, including inventory carrying costs. We also deducted direct and indirect selling expenses, including inventory carrying costs.

3. Flores La Fragancia S.A.

For Fragancia, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, foreign inland freight and air freight (which includes U.S. duties and U.S. brokerage).

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight (which includes U.S. duties and U.S. brokerage). We also deducted U.S. credit expenses and U.S. and Colombian indirect selling expenses, including inventory carrying costs.

4. Flores Mocari S.A.

For Mocari, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight and U.S. import duties.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, credit expenses, warranty expenses, and other U.S. direct expenses, and U.S. and Colombian indirect selling expenses, including inventory carrying costs. We recalculated U.S. indirect selling expenses and credit expenses because we did not accept Mocari's allocation methodology (See Comment 39). As a result of this decision, and our decision on the interest rate issue, we have also recalculated warranty, credit, and inventory carrying costs. We also recalculated the inventory carrying costs using the cost of manufacturing (COM).

5. Grupo Andes

For Andes, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, and U.S. import duties.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions where necessary, for foreign inland freight, air freight, U.S. customs duties, U.S. and Colombian indirect selling expenses including inventory carrying costs, and U.S. direct selling expenses including credit expenses. We recalculated U.S. credit expenses to reflect the data examined at verification.

For roses that were further manufactured into bouquets after importation, we adjusted for all value added in the United States, including the proportional amount of profit or loss attributable to the value added, pursuant to section 772 (e)(3) of the Act. We added packing to reported U.S. prices. For the cost of merchandise subject to further manufacturing, in addition to the adjustments cited in the section on FMV, below, for constructed value, we 1) corrected the U.S. general expenses to reflect a percentage of cost of goods sold, and 2) recalculated interest expense to exclude the CV offset.

6. Grupo Benilda

For Benilda, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. customs duties, U.S. inland freight, and other movement expenses; as BIA, we broke U.S. inland freight expenses out from total reported U.S. indirect selling expenses to be deducted as a movement charge. We also deducted Colombian and U.S. indirect selling expenses, including inventory carrying costs, U.S. direct selling expenses, including credit expenses, and other direct expenses. We also deducted U.S. inland freight charges, which we removed from the U.S. indirect selling expenses reported as incurred by AGA, Benilda's U.S. sales subsidiary. For those ESP sales where Benilda did not report air freight and U.S. duty, we applied, as BIA, the average reported value for each such expense. Based on findings at verification, an allocation method was used to segregate freight expenses included in the U.S. indirect selling expenses and recalculate U.S. indirect selling expenses. Based on findings at verification, Benilda has included U.S. brokerage expenses as a component of U.S. indirect selling expenses.

7. Grupo Bojaca

For Bojaca, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, brokerage and handling, and discounts and rebates. We also deducted U.S. direct selling expenses, including credit expenses, U.S. and Colombian indirect selling expenses, including inventory carrying costs, and commissions to unrelated parties.

8. Grupo Clavecol

For Clavecol, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts and foreign inland freight. As BIA, we deducted a percentage of gross price for one purchase price customer, in order to account for unreported wire transfer charges discovered at verification.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, U.S. brokerage and handling charges, credit expenses and U.S. and Colombian indirect selling expenses, including inventory carrying costs. At the preliminary determination, because Clavecol had not adequately supported its reported interest rate for calculating imputed credit expense, we used the highest public interest rate on the record in the companion investigation of roses from Ecuador, which was a ranged value for a U.S. subsidiary of an Ecuadoran rose producer, Guanguilqui Agro-Industrial S.A., of 10 percent (*See* the September 12, 1994, concurrence memorandum and the September 9, 1994, memorandum to the file). However, on September 22, 1994, Clavecol clarified that its U.S. subsidiary had no borrowings in the United States on which to base a dollar interest rate for calculating imputed credit on ESP sales. Therefore, we are using the reported credit expenses based on Clavecol's reported U.S. dollar interest rate. For the final determination we are deducting from ESP those discounts on ESP sales examined at verification but not submitted in computer form until Clavecol's December 7, 1994, submission. Accordingly, we also reduced Clavecol's reported U.S. credit expense by the proportion of discounts from gross price.

9. Grupo Floramerica

For Floramerica, we calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, brokerage and handling, U.S. inland freight, warranty expenses including billing credits, promotional fees, credit expenses and U.S., Panamanian and Colombian indirect selling expenses, including inventory carrying costs. In addition, we added an amount for interest revenue to U.S. price.

10. Grupo Intercontinental

For Intercontinental, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for price adjustments and foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, U.S. import duties, U.S. brokerage and handling, credit expenses, and U.S. and Colombian indirect selling expenses incurred on ESP sales, including inventory carrying costs, and commissions to unrelated parties.

11. Grupo Papagayo

For Papagayo, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight expenses, and other movement expenses.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, U.S. inland freight, brokerage and handling charges, and other movement expenses. We also deducted Colombian and U.S. indirect selling expenses, including inventory carrying costs, direct selling expenses, including credit, other expenses, and commissions paid to unrelated parties. We recalculated Colombian indirect selling expenses based on findings at verification.

12. Grupo Prisma

For Prisma, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight. We recalculated foreign inland freight for certain customers based on verification findings.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, which we recalculated for certain customers based on verification findings. We also made deductions for air freight, U.S. import duties, brokerage and handling, U.S. direct selling expenses, including credit expenses, Colombian indirect selling expenses and other indirect selling expenses. We recalculated Colombian indirect selling expenses based on verification findings. We made a deduction for unrelated party commissions. We deducted inventory carrying cost which we calculated, as respondent did not report this expense.

13. Grupo Sabana

For Sabana, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight and U.S. import duties. For certain transactions for which Sabana did not provide proof of payment, we recalculated the credit expense using the date of the final determination as the payment date.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, U.S. import duties, direct selling expenses, including credit expenses, and U.S. and Colombian indirect selling expenses including inventory carrying costs. We recalculated the credit expense using the average interest rate reported by the companies that had short-term POI borrowings. We also recalculated the inventory carrying expenses using the average interest rate, an additional number of days for movement of the subject merchandise from Bogota to Miami, and the COM.

14. Grupo Sagaro

For Sagaro, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, and brokerage and handling expenses. We also deducted credit expenses, promotional fees, and other direct expenses, U.S. indirect selling expenses and commissions to unrelated parties.

15. Grupo Tropicales

For Tropicales, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight and air freight. We deducted reported packing expenses and replaced them with verified data. We also deducted discounts, where appropriate.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts and rebates, foreign inland freight, air freight, brokerage, credit expenses, promotional fees, and other direct selling expenses, and U.S. and Colombian indirect selling expenses, including inventory carrying costs. We recalculated credit, inventory carrying costs, and other U.S. indirect selling expenses, based on findings at verification. We deducted reported packing expenses and replaced them with verified data. We also deducted discounts, where appropriate.

16. Rosex Group

For Rosex, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, and brokerage and handling. We also deducted credit expenses, and promotional fees, as well as U.S. indirect selling expenses and commissions to unrelated parties.

Foreign Market Value

To determine whether a respondent's sales of roses from Colombia to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice. We based FMV on constructed value (CV) for all producers. For those respondents with viable home markets, we found insufficient sales above COP. For those respondents with viable third country markets, we rejected sales to these markets (see Comment 7). The remaining respondents had no viable home or third country markets. We calculated CV on a rose type basis, where the appropriate data was available (*see* Comment 6).

In calculating FMV, wherever there were insufficient sales above cost in the home market, we based FMV on CV, as explained in ''Cost of Production Analysis'', below.

Home Market Sales

In order to determine whether there were sufficient sales of fresh cut roses in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of export quality roses to the volume of third country sales of export quality roses in accordance with section 773(a)(1)(A) of the Act. Based on this comparison, we determined that ten of the 16 respondents had viable home markets. The ten companies were: Andes; Benilda; Bojaca; Caicedo; Floramerica; Fragancia; Intercontinental; Papagayo; Prisma; and, Sagaro.

Cost of Production Analysis

Because the petitioner's allegations, when considered in light of the information on the record, gave the Department ''reasonable grounds to believe or suspect'' that the ten respondents with known viable home markets were selling roses in Colombia at prices below their COP, the Department initiated COP investigations to determine whether these respondents had home market sales that were made at less than their respective COPs (See the September 8, 1994, memorandum from Richard W. Moreland to Barbara R. Stafford). The respondents requested that we depart from our normal practice and interpret our COP analysis in such a manner as to either accept or reject all sales. We denied this request. (*See* the January 26, 1995, COP memorandum from the team to Barbara R. Stafford).

In keeping with our past practice in cases involving perishable agricultural products, where we found less than 50 percent of a respondent's sales of roses were at prices below the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities (*See Certain Fresh Winter Vegetables From Mexico* 45 FR 20512 (1980)). Where we found between 50 and 90 percent of a respondent's sales of export quality roses were at prices below the COP, and the below cost sales were made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales for that product and calculated FMV based on CV. The Department enunciated its practice of modifying the standard cost test to account for the perishability of products in *Certain Fresh-Cut Flowers from Mexico (3/1/88 to 4/31/89)*, and stated that the 50 percent modification only affected the lower threshold of the standard 10–90–10 test. The Department is continuing this standard practice in this investigation (for a detailed discussion of the history of the cost test for perishable products, see the January

26, 1995, 50–90–10 memorandum from the team to Barbara R. Stafford).

Constructed Value Comparisons: Companies With Home Market Sales Below the Cost of Production

In order to determine whether the home market prices were above the COP, we calculated the COP based on the sum of a respondent's cost of cultivation, general expenses, and packing. For all respondents with viable home market sales, we found that more than 90 percent of all sales fell below COP for each company. Therefore, in accordance with section 773(b) of the Act we disregarded all home market sales and calculated FMV on CV. We calculated CV based on the sum of a respondent's cost of cultivation, plus general expenses, profit, and U.S. packing. For general expenses, which includes selling and financial expenses (SG&A), we used the greater of the reported general expenses or the statutory minimum of ten percent of the cost of cultivation. For profit, we used the statutory minimum of eight percent of the cost of cultivation and general expenses, in accordance with section 773(e)(B) of the Act (19 CFR 353.50(a)(2)) and *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States*, Slip Op. 93–1239 (Fed. Cir., January 5, 1994).

Constructed Value Revisions

We made specific revisions to each respondent's submitted COP and CV data as described below:

1. Flores La Fragancia S.A.

For Fragancia, we: (1) Increased G&A expenses by the amount of other G&A incurred in December, 1993; (2) disallowed interest income earned on investments of working capital not deemed to be short-term; (3) adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (4) included the actual greenhouse plastic expense incurred during the POI.

2. Grupo Andes

For Andes, we: (1) adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) adjusted G&A expense to include parent company G&A costs; and (3) adjusted depreciation expense for a computational error.

3. Grupo Benilda

For Benilda, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (2) allocated company-wide net financial expenses to rose production and non-subject merchandise based on the ratio of cultivated area to flower type.

4. Grupo Bojaca

For Bojaca, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (2) reclassified the miscellaneous income items from financial income to general and administrative expense.

5. Caicedo Group

For Caicedo, we adjusted amortization and depreciation expenses to account for the effect of Colombian inflation.

6. Grupo Floramerica

For Floramerica, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) adjusted cultivation costs to include all 1993 year-end adjustments; and (3) disallowed interest income earned on investments of working capital not deemed to be short-term.

7. Grupo Intercontinental

For Intercontinental, we: (1) Allocated company-wide G&A costs to rose production and non-subject merchandise based on the ratio of cultivated area to flower type; (2) allocated company-wide net financial expenses to rose production and non-subject merchandise based on the ratio of cultivated area to flower type; and (3) adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (4) corrected materials, direct labor, and field structure costs to account for amounts that were incorrectly capitalized as preproductive expenses; and (5) adjusted home market packing to account for inconsistencies in respondent's reporting of this expense.

8. Grupo Papagayo

For Papagayo, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) reclassified bad debt expense from financing expense to indirect selling expense; and (3) included certain income and expense items which related to the general production activity of the company as a whole in general and administrative expense.

9. Grupo Prisma

For Prisma, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (2) allocated company-wide net financial expenses to rose production and non-subject merchandise based on the ratio of cultivated area to flower type.

10. Grupo Sagaro

For Sagaro, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) included the worm culture costs as a general research and development expense; and (3) allocated company-wide net financial expenses to rose production and non-subject merchandise based on the ratio of cultivated area to flower type.

Constructed Value Adjustments

In order to calculate FMV, we made company-specific adjustments as described below:

1. Flores La Fragancia S.A.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we deducted the indirect selling expenses up to the amount of the indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56 (b)(2).

2. Grupo Andes

For CV to purchase price comparisons, we made circumstance of sale adjustments for direct selling expenses, including credit expenses. We recalculated U.S. credit expenses to reflect data examined at verification.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses, including credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2). We recalculated U.S. credit expenses to reflect data examined at verification.

3. Grupo Benilda

For CV to purchase price comparisons, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses and other direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses including credit. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

4. Grupo Bojaca

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses. We deducted the indirect selling expenses, including, where appropriate, inventory carrying costs, up to the sum of the indirect selling expenses incurred on U.S. sales and commissions to unrelated parties, in accordance with 19 CFR 353.56(b)(2).

5. Caicedo Group

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses and other direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2). We revised reported U.S.-incurred indirect selling expense to include sales to local vendors in the calculation of the indirect selling expense ratio. We recalculated U.S. credit expenses to reflect data examined at verification.

6. Grupo Floramerica

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

7. Grupo Intercontinental

For CV to purchase price comparisons, we made circumstance of sale adjustments for direct selling expenses, including credit expenses. We recalculated U.S. direct selling expenses to reflect data examined at verification. We also deducted from CV indirect selling expenses, including inventory carrying costs, up to the U.S. unrelated party commissions, and added U.S. commissions.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses, including credit expenses. We recalculated U.S. direct selling expenses to reflect data examined at verification. We also deducted from CV indirect selling expenses, including inventory carrying costs, up to the sum of U.S. unrelated party commissions and indirect selling expenses 19 CFR 353.56(b)(2).

8. Grupo Papagayo

For CV to purchase price comparisons, we made circumstances of sales adjustment for direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses. We also deducted from CV the indirect selling expenses up to the amount of U.S. indirect selling expenses and unrelated party commissions, in accordance with 19 CFR 353.56(b)(2).

9. Grupo Prisma

For CV to purchase price comparisons, we made circumstances of sales adjustment for credit expenses and other direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses. We also deducted from CV the indirect selling expenses up to the amount of U.S. indirect selling expenses and unrelated party commissions, in accordance with 19 CFR 353.56(b)(2).

10. Grupo Sagaro

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses up to the amount of indirect selling expenses and commissions paid to unrelated parties incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Constructed Value: Companies Without Viable Home Markets and Companies Without Adequate Sales in Any Foreign Market

The Department has determined that, in the case of those respondents for which the home market was not viable, FMV should be based on CV rather than a comparison to third country prices. (For a full discussion of this issue, see Comment 6 of this notice.) These three companies were: Clavecol, Sabana, and Tropicales.

Additionally, for three other respondents, we calculated FMV based directly on CV, in accordance with section 773(e) of the Act, because these respondents did not have adequate sales in either the home market or in any third country markets during the POI. These three companies were: Agrorosas, Mocari, and Rosex.

• *Constructed Value Revisions*

We made specific revisions to each respondents' CV data as described below:

1. Agrorosas S.A.

For Agrorosas, we: (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) adjusted G&A to reflect the actual cost of secretarial salaries and to include a portion of the cost of maintaining the office in Bogota.

2. Flores Mocari S.A.

For Mocari, we: (1) Increased pre-production amortization expense to account for an understatement of capitalized costs; (2) adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (3) increased financial expense for foreign exchange loss on debt.

3. Grupo Clavecol

For Clavecol, we; (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; and (2) allocated company-wide net financial expense to rose production and nonsubject merchandise based on cost of sales.

4. Grupo Sabana

For Sabana, we; (1) Adjusted amortization and depreciation expenses to account for the effect of Colombian inflation; (2) allocated company-wide net financial expenses to rose production and non-subject merchandise based on the ratio of cultivated area by flower type; and (3) adjusted cull revenue to reflect the amount verified by the sales analyst.

5. Grupo Tropicales

For Tropicales, we adjusted amortization and depreciation expenses to account for the effect of Colombian inflation.

6. Rosex Group

For Rosex, we: (1) Reclassified certain expenses from G&A expense to cost of manufacturing; (2) disallowed interest income earned on investments of working capital not deemed to be short-term; and (3) adjusted amortization and depreciation expenses to account for the effect of Colombian inflation.

• *Constructed Value Adjustments*

In order to calculate FMV, we made company-specific adjustments as described below:

1. Agrorosas S.A.

For CV to purchase price comparisons, we made circumstances of sale adjustments, where appropriate, for direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses. We also deducted from CV the indirect selling expenses up to the amount of U.S. indirect selling expenses incurred on U.S. sales and U.S. commissions to unrelated parties.

2. Flores Mocari S.A.

For CV to purchase price comparisons, we made circumstance of sales adjustments for direct selling expenses including credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

3. Grupo Clavecol

For CV to purchase price comparisons, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

4. Grupo Sabana

For CV to purchase price comparisons, we made circumstance of sales adjustments for direct selling expenses, including credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses, including credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

5. Grupo Tropicales

For CV to purchase price comparisons, we made circumstance of sales adjustments, where appropriate, for direct selling expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for direct selling expenses, including credit expenses. We also deducted from CV the indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

6. Rosex LTDA

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the indirect selling expenses up to the amount of indirect selling expenses and commissions paid to unrelated parties incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Verification

As provided in section 776(b) of the Act, we conducted verification of the information provided by the respondents by using standard verification procedures, including the examination of relevant sales, cost and financial records, and selection of original source of original source documentation.

Critical Circumstances

In the petition, the petitioner alleged that ''critical circumstances'' exist with respect to importation of roses. However, we did not initiate a critical circumstances investigation because, since roses are extremely perishable, it is not possible to accumulate an inventory of roses in order to evade a potential antidumping duty order. Therefore, we determined that an allegation that critical circumstances exist is without merit (*See* the September 12, 1994, concurrence memorandum).

General Comments

Petitioner and respondents raised comments pertaining to the concordance, the treatment of Difmer adjustments, the aggregation of third country markets, and annual and monthly averaging of FMV. These comments were rendered moot by the Department's decision to base FMV on CV. *See* Comment 6 below.

Comments Pertaining to Scope

Comment 1: Roses in Bouquets

Respondents assert that roses in bouquets should not be included within the scope of the investigation for four reasons: (1) There is no legal basis for the Department to include within the scope of the investigation only a component part contained in imported finished merchandise (*i.e.*, the roses within the bouquet); (2) bouquets are not within the same class or kind of merchandise as roses according to the criteria set out in *Diversified Products* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983)(*Diversified Products*); (3) the Department lacks the authority to expand the investigation to include bouquets; and (4) petitioner does not represent producers of bouquets or producers of ''roses in bouquets.'' Respondents have supplied an analysis of the information in these investigations as applied to *Diversified Products*.

Petitioner requests that the Department continue to include roses in bouquets within the scope of its investigation. Petitioner states that since the description of bouquets is found in the petition, the Department's and ITC's preliminary determinations are dispositive as to the scope of the investigation, and an analysis under *Diversified Products* is unnecessary, although petitioner supplied such an analysis. Petitioner states that the scope description in the petition covers all fresh cut roses, whether imported as individual blooms (stems) or in bouquets or bunches. Also, petitioner claims to represent growers producing mixed bouquets of fresh cut flowers, and hence has standing to file a petition covering bouquets.

Petitioner maintains that any antidumping duty order issued in this investigation will be substantially undermined if foreign rose producers/exporters can circumvent the order by importing bouquets of fresh cut roses covered by the order. Petitioner states that it would be absurd for the Department to permit respondents to combine merchandise subject to the order to achieve a final product outside the scope of the order.

DOC Position

Roses, including roses in bouquets, are within the scope of the investigation and constitute a single class or kind of merchandise. Because the scope covers only the roses in bouquets, not the bouquets themselves, respondents' arguments that bouquets constitute a separate class or kind are inapposite. Therefore, a *Diversified Products* analysis is not required. The Department's conclusion that all roses, whether or not imported as individual stems or in bouquets or bunches, constitute a single class or kind of merchandise is consistent with its determination in *Flowers*. *See Flowers*, 59 FR 15159, 15162–4 (March 31, 1994) (final results of 4th admin. review).

The packaging and presentation of roses in bunches and bouquets do not transform the roses into merchandise outside the scope of the order. *See Final Determination of Sales at Less Than Fair Value; Red Raspberries from Canada*, 50 FR 19768, 19771 (May 10, 1985). Nor is the rose transformed into a new article by virtue of being bunched or placed in a bouquet. Notably, Customs disaggregates bouquets, requiring separate reporting and collection of duties on individual flower stems regardless of how they are imported. As a result, Customs, in this case, will collect duty deposits only on individual rose stems incorporated in bouquets, not the bouquets themselves.

Respondents argue that there is no legal basis for the Department to include within the scope of an investigation only a component part of imported finished merchandise, *i.e.*, the roses within the bouquet. As discussed above, consistent with Customs, the Department is not treating bouquets as a distinct finished product.

Respondents' argument that the Department cannot expand the investigation to include bouquets, also can be dismissed. A review of the descriptions contained in the petition and the Department's and ITC preliminary determinations reveals quite clearly that what is covered by this investigation is all fresh cut roses, regardless of the form in which they were imported. Specifically, the petition covers ''all fresh cut roses, whether imported as individual blooms (stems) or in bouquets or bunches, as provided in HTSUS 0603.10.60.'' Petition at 8 (emphasis added). HTSUS 0603.10.60 covers

> Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh * * *
>
> 0603.10.60 Roses:
> 10 Sweetheart
> 90 Other

Furthermore, the scope of this investigation unequivocally states that

> The products covered by this investigation are fresh cut roses, including sweethearts or miniatures, intermediates, and hybrid teas, *whether imported as individual blooms (stems) or in bouquets or bunches.*

Preliminary Determination of Sales at Less Than Fair Value, 59 FR 48285 (Colombia), 59 FR 48294 (Ecuador) (emphasis added). Finally, in its preliminary determination, the ITC found that ''the plain language of Commerce's scope description in these investigations demonstrates that the merchandise subject to investigation covers the roses *in* the bouquets only,'' and not the bouquets themselves. ITC Pub. No. 2766 at 9 (March 1994). Neither the Department nor the petitioner has ever attempted to include the bouquets themselves, nor any of the other types of flowers which comprise a bouquet, within the scope of this investigation. The plain language of the Department's scope description demonstrates that the merchandise subject to investigation covers the roses *in* the bouquets only and does not expressly state that the bouquets are themselves covered. Notably, the ITC stated that ''[b]ouquets are referred to in the scope definition to indicate that all fresh cut roses are covered, regardless of the form, or packaging, they are imported in.'' ITC Pub. No. 2766 at 9 (March 1994).

Finally, we disagree with respondents' contention that petitioner lacks standing in this investigation because it does not represent producers of bouquets or producers or ''roses in bouquets.'' In order to have standing in an antidumping investigation, petitioner must produce, or represent producers of, the like product. *See, e.g., Final Determination of Sales at Less Than Fair Value: Nepheline Syenite from Canada,* 57 FR 9237 (March 17, 1992)(comment 5). We agree with the ITC that there is one like product in this investigation—''all fresh cut roses, regardless of variety, or whether included in bouquets.'' ITC Pub. No. 2766 at 9, 14 (March 1994). Because petitioner represents producers of fresh cut roses they have standing in this investigation.

Comment 2: Spray Roses

Respondent HOSA, an exporter/purchaser of spray roses, argues that spray roses are a genetically distinct species of the *rosa genus.* Therefore, HOSA argues that the Department should exclude spray roses from the scope of the investigation. HOSA states that spray roses are not explicitly included in the scope of the investigation. Furthermore, HOSA argues that spray roses were never mentioned in the petition nor were price or cost of production data provided in the petition for spray roses. HOSA suggests that the Department analyze spray roses pursuant to the criteria set out in *Diversified Products* analysis to evaluate whether spray roses are within the scope of this investigation.

Petitioner requests that the Department include spray roses in the antidumping duty order. Petitioner states that since the description of spray roses is found in the petition, the instant investigation and the Department and ITC determinations are dispositive as to the scope of the investigation and analysis under *Diversified Products* is unnecessary, (although respondent provides an analysis under *Diversified Products*). Petitioner asserts that all fresh cut roses, without regard to stem length, species or variety, were specifically covered in the scope of the petition. Petitioner contends that the fact that spray roses may be of a distinct species of the *rosaceae* family does not exclude them from the petition, since the petition includes all roses, regardless of species. Although it claims it as unnecessary, petitioner conducts an analysis under the *Diversified Products* criteria to show that spray roses are properly included in the scope of the petition.

DOC Position

We agree with petitioner. The descriptions of the merchandise in the petition and in the Department's scope are dispositive with respect to spray roses and the evidence on the record, including the ITC's preliminary determination, supports treating this rose variety no differently than other varieties within the same class or kind of merchandise subject to these investigations.

The scope of the petition clearly refers to spray roses. First, the petition notes that the scope ''* * * covers all fresh cut roses, whether imported as individual blooms, stems or in bouquets or bunches.'' Spray roses are fresh cut roses sold in bunches or bouquets and are classified under the HTSUS subheading 0603.10.60, as are standard roses. Second, the petition states that its scope is ''* * * inclusive of all imported roses from Colombia and Ecuador, without regard to stem length, species or varieties.'' Third, the scope description in the petition cites the ITC's definition from the prior roses investigation. *See* ITC's Publication 2178 at 4–15 (April 1989) ''Roses are members of the *rosaceae* family * * *'' Genetically, spray roses are members of the *rosaceae* family, as are standard roses.

While differences exist between spray and standard roses, it should be noted that differences also exist between other varieties of roses within the scope of this investigation. The ITC stated in its preliminary finding of fresh cut roses from Colombia and Ecuador that ''* * * we note that different rose varieties also have varying stem lengths and bloom sizes (*e.g.,* as with spray roses, sweetheart roses have smaller buds and shorter stems than traditional roses), which we do not find to be significant differences in physical characteristics.'' *See* ITC Pub. No. 2766 at 10 (March 1994). Although the ITC's preliminary finding is not dispositive with respect to this scope analysis, it clearly demonstrates that the physical differences of each rose variety within the same like product category are not merely unique to spray roses, and that the differences of the varieties within the same like product category are not sufficient ''to rise to the level'' of differences in the like product.

We also note that the rationale used by the ITC in these investigations, of including spray roses within the same like product category, is consistent with the Department's rationale as to whether a product should or should not be in the same class or kind of merchandise. In its notice of final determination of sales at LTFV in *Antifriction Bearings from West Germany,* 54 FR 18992 (May 3, 1989), the Department stated that ''the real question is whether the difference is so material as to alter the essential nature of the product, and therefore, rise to the level of class or kind differences.'' The class or kind of merchandise subject to these investigations includes different rose varieties such as sweethearts or miniatures, intermediates, and hybrid teas. Like spray roses, each variety within the class or kind differs from the other varieties. However, in this instance, the similarities greatly outweigh the dissimilarities and the dissimilarities do not alter the essential nature (*i.e.*, that spray roses are export quality roses) of the spray roses.

Comment 3: Rose Petals

Simpson & Turner, an importer of rose heads, rose petals (petals), and foliage (by-products) argues that such products should be excluded from the scope of this investigation because these products are not the same ''class or kind of merchandise'' as the subject merchandise. Simpson & Turner maintains that the petition refers to stems, but does not mention petals or foliage, and the HTSUS description refers to flower buds as ''flower buds of a kind suitable for bouquets or for ornamental purposes.''

Simpson & Turner argues that rose heads, rose petals and foliage were not mentioned in the Department's LTFV investigation's initiation or preliminary determination. The scope description specifically refers to a fresh cut rose as a bloom, which is clarified to be a stem. The scope description then defines the form of importation of the stem as an individual, part of a bouquet or bunch.

Petitioner asserts that Simpson & Turner fails to distinguish imported ''rose bush foliage, rose petals, and rose heads'' from ''culls'' within the scope of the this investigation. Petitioner asserts that culls are within the scope of the petition and investigation. Petitioner states that in its preliminary determination, the Department found that culls are a ''such or similar category'' separate from export quality roses but nonetheless covered by the petition and states further that no party has challenged the Department's determination that culls are within the scope of the investigation.

Petitioner states that the description of merchandise provided by Simpson & Turner, however, invites the Department to issue a scope ruling that would permit culls to enter the United States outside the order. To the extent that Simpson & Turner seek to exclude more than loose rose petals, loose rose foliage, or stems without rose heads, the described merchandise apparently consists of culls, which as such are included by the plain language of the petition and by the Department's unchallenged ruling concerning ''such or similar'' categories.

Petitioner further notes that culls are simply roses that did not meet the criteria of quality and length required for export. Culls may ''have crooked stems, deformed buds, or have opened prematurely.'' (Guaisa § A Resp. at 26). Consequently, petitioner asserts that the roses imported by Simpson & Turner, consisting of rose heads with very small stems or of roses ''normally discarded at the farm level in time of grading due to poor appearance, stage of development and scarring'' meet the definition of culls and should thus be included within the scope of these investigations.

DOC Position

We agree with Simpson & Turner. *See Scope of Investigation* above, indicating that loose rose foliage (greens), loose rose petals and detached buds should be excluded from the scope of these investigations.

The scope used in the preliminary determination clearly stated that roses which are imported as individual blooms (stems) or in bouquets or bunches are included. However, we asked petitioner to comment on this scope issue at the December 12, 1994, Colombia hearing, at which time petitioner clearly stated that it does not consider loose rose foliage, loose rose petals or buds detached from the stem to be included in the scope of these investigations.

Comments Pertaining to USP

Comment 4: Annual and Monthly U.S. Price Averaging

Petitioner argues that USP should not be averaged over a full month or over a year because such prices would be unrepresentative of transaction-specific, daily or weekly U.S. sales. Petitioner claims that both monthly and annual averaging would obscure or mask dumping. Petitioner contends that monthly averaging would mask dumping of roses at low prices within every month and that annual averaging would be even more distortive, concealing dumping during months in which major holidays occur.

Petitioner claims that the facts in the instant *Roses* investigations do not support the reasons articulated in the *Flowers* administrative reviews for departing from the normal Department practice of using daily U.S. prices. Specifically, petitioner maintains that, because roses have a shorter life span than other fresh cut flowers, there is no basis for using a monthly average U.S. price. Petitioner also asserts that respondents' inability to control production, timing, or prices is irrelevant to the application of the averaging provision in the statute.

Respondents claim that the Department erred in the preliminary determination by comparing one average constructed value encompassing all varieties and stem lengths to a product-specific monthly average USP. Respondents argue that this comparison is inappropriate because, although growers do not maintain cost records on a variety-specific or stem-specific basis, different rose products have different physical characteristics and different costs and values related to productivity and consumer preferences, all of which result in widely different prices. Respondents assert that if costs are standardized, yet prices fluctuate according to consumer demand for particular rose products, average costs can only be meaningfully compared to equivalent average prices without artificially creating margins. Respondents argue that an annual average constructed value should be compared to an annual average USP. Respondents state that the unique factors characterizing rose production, demand, and perishability, in addition to extreme seasonality, compel the use of annual average U.S. prices.

Respondents maintain that using any type of monthly average USP in the comparison measures only seasonality and not dumping. Specifically, respondents argue that the Department must take into account: (1) That the USP cycle is an unavoidable consequence of the highly seasonal nature of U.S. demand; (2) the high perishability of the product; (3) the rose production cycle is geared towards consumer demand which is concentrated around Valentine's Day; and (4) roses cannot be stored and rose production is a continuous process that cannot be turned off after Valentine's Day. According to respondents, these conditions result in unavoidable price swings. For these reasons, respondents contend that using any type of monthly USP average artificially creates dumping margins by establishing a benchmark that no producer can meet.

In addition, respondents contend that using monthly average USP does not account for month-to-month volatility caused by the extreme seasonality of U.S. demand. Therefore, respondents maintain that monthly average U.S. prices are not representative for purposes of comparison with an annual CV and that only an annual average USP captures the full demand/production cycle, undistorted by seasonal factors.

Regarding petitioner's contention that the Department should not use a monthly USP in the *Roses* cases because, unlike flowers, roses have a shorter life, Floramerica points out that shelf life alone does not justify a departure from the Department's traditional averaging methodology and further, that there is information on the record which shows that roses do not have a shorter shelf life.

DOC Position

19 U.S.C. 1677f–1(b) and 19 353.59(b) provide the Department with the discretionary authority to use sampling or averaging in determining United States price, provided that the average is representative of the transactions under investigation. In these investigations, we determined, based on a combination of factors, to average U.S. sales. The Department was confronted with approximately 555,000 Colombian transactions which, when combined with the number of estimated U.S. sales transactions from Ecuador, exceeded one million. As a result, a decision to make fair value comparisons on a transaction-specific basis would place an onerous, perhaps even an impossible, burden on the Department in terms of data collection, verification, and analysis. Consequently, we exercised our discretion in order to reduce the administrative burden and maximize efficient use of our limited resources. Additionally, we recognize the need for consistency in our treatment of these concurrent investigations and, although the number of transactions may vary between the two countries, uniform application of an averaging methodology ensures that both Colombia and Ecuador will be treated on the same basis. *See* the June 24, 1994, Decision Memorandum pertaining to reporting requirements from Team to Barbara Stafford.

Moreover, we took into account that the majority of respondents, who make U.S. sales on consignment, have little, if any, ability to provide the level of detail which would have been required for the Department to do a transaction-specific analysis because unrelated consignees generally keep accounts for respondents' U.S. sales in monthly grower reports. Upon review of data submitted, and later verified, we concluded that a month was the shortest period of time which would permit all respondents to provide U.S. sales information on a uniform basis, thus ensuring that we treated all respondents in a similar manner in terms of data collection and analysis.

Importantly, because of the highly perishable nature of the product, we believe that monthly averaging of U.S. prices in these investigations provides a fair and more representative measure of value. Unlike nonperishable merchandise, respondent growers cannot withhold their roses from the market to await a better price. Rather, respondents are faced with the choice of accepting whatever return they can obtain on certain sales, so-called ''end-of-the-day'' and ''distress sales'', or of destroying the product. Were we to perform a transaction-by-transaction comparison, such an approach, beyond the limits imposed on the Department as described above, would give undue and disproportionate weight to end-of-the-day sales. Even where a respondent's normal sales were above fair value, he could be found to be dumping solely on the basis of sales made as a result of perishability. By adopting a monthly averaging period, we ensure that the entire range of distress and nondistress sale prices are covered.

Furthermore, while use of actual prices and transaction-by-transaction data is the norm, the statute allows for averaging provided such averaging yields representative results. We conclude that, in light of the above factors, using monthly averages of U.S. sales prices constitutes the shortest period necessary to capture a representative analysis of the ordinary trading practices in this industry. Our approach is consistent with the Department's past practice in investigations of fresh cut flowers as well as other perishable agricultural products. See Certain Fresh Cut Flowers From Colombia: Final Results of Antidumping Duty Administrative Review, 55 FR 20491 (May 17, 1990); Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers From Mexico, 52 FR 6361 (March 3, 1987). Furthermore, our approach has been upheld consistently by the court. See *Floral Trade Council* v. *United States*, 775 F. Supp. 1492, 1500–2 (CIT 1991); *Asociacion Colombiana de Exportadores de Flores* v. *United States*, 704 F. Supp. 1114 (CIT 1989).

Lastly, we are unpersuaded by two additional arguments proffered by petitioner to shorten the averaging period in these investigations. First, petitioner claims a factual distinction between the life-span of a rose and a fresh cut flower. However, we find that the record in these investigations establishes that from the time of importation, roses last approximately seven to ten days, while flowers last approximately ten to fourteen days and both may be held for more than one week in refrigerated coolers. Thus, we find this to be a distinction without a difference. Second, petitioner argues that, by not using a shorter averaging period, dumping during peak holiday periods such as at Valentine's Day, will elude the Department. According to petitioner, sales of roses imported before this holiday, but which are sold after the holiday when demand is quite low, will be sales at dumped prices. The petitioner does not consider such dumped sales legitimately within the category of end-of-the-day sales, for which our averaging period is designed to fairly account. Rather, petitioner argues that by averaging these low-priced sales with high-priced holiday sales for the month of February, dumping will be understated. While we recognize that using a monthly averaging period could result in some offsetting of high-priced sales with low-priced sales, we believe that overall, monthly averaging is representative of the transactions under investigation. Moreover, in verifying numerous companies' February grower reports we found that only an insignificant number of roses were imported in February after Valentine's Day, as compared to the overwhelming volume imported during the first 13 days of the month, thus ameliorating this circumstance.

Annual Averaging

While we recognize that averaging is necessary in these investigations, we believe that averaging U.S. sales prices over a year is inappropriate. As we stated in *Flowers*,

> nothing in the statute, the legislative history, or the Department's practice (including *Final Determination of Sales of Not Less Than Fair Value: Fresh Winter Vegetables from Mexico* (45 FR 20512; March 24, 1980) supports the broad notion of annual averaged U.S. prices. Annual averaging would extend too much credit to respondents by allowing them to dump for entire months when demand is sluggish, so long as they recoup their losses during months of high demand.

See Final Results of Antidumping Administrative Review and Revocation in Part of the Antidumping Duty Order: Certain Fresh Cut Flowers from

Colombia, 56 FR 50554, 50556 (October 7, 1991). The CIT has agreed with the Department that monthly averaging adequately compensates for perishablilty but averaging over a longer period could obscure dumping. See *Floral Trade Council* v. *United States*, 775 F. Supp. 1492, 1500 (CIT 1991).

Even though respondents argue that the demands of the U.S. market determine their U.S. pricing and that they are price takers rather than price setters, we note that the intent to dump is not the issue. See Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Mexico, 52 FR 6361, 6364 (March 3, 1987). The issue is whether, in fact, dumping is occurring.

Comment 5: Product Averaging

Regarding the use of variety and stem-specific monthly average USPs, respondents contend that the Department is bound by its longstanding administrative practice in the original investigations and subsequent administrative reviews of *Flowers* to calculate monthly average USPs by flower type, without regard to variety or grade. Additionally, the Department has consistently concluded that comparing CV data by flower type to grade or variety-specific USPs would produce unfair and distorted results. Respondents maintain that the Department has not furnished any reasonable explanation for its departure from this practice in the preliminary determination.

Respondents urge the Department to compare all rose products to all rose products on an annual average basis. Alternately, respondents request that the Department compare product-specific, monthly U.S. prices to identical product-specific, monthly FMV prices. Respondents note that where FMV is not available, CV should be used. However, the profit element should be monthly FMV profit, not annual FMV profit. In addition, respondents argue that average CV of all products combined must be compared to U.S. prices of non-matched products.

Petitioner argues that product averaging should not be used to obliterate differences in prices due to physical differences in roses. Petitioner stresses that it is particularly important that the prices of the low-priced Visa roses are not averaged together with prices of other red roses. Petitioner maintains that an average across varieties, colors, or stem lengths substantially distorts the market reality.

DOC Position

We agree with respondents that averaging by flower type is appropriate in this investigation. Consistent with *Flowers*, where possible, we compared USP and CV on a rose type basis, *i.e.*, hybrid tea, sweetheart, etc. *See, e.g., Fresh Cut Flowers From Colombia*, 59 FR 15159, 15160–61 (March 31, 1994) (4th admin. review final). For a number of companies, however, we were unable to compare USP and CV on a rose type basis because the respondents do not keep their cost data in such a fashion. As a result, in order to ensure an ''apples-to-apples'' comparison, we aggregated U.S. price data to arrive at a weighted-average monthly USP for all rose types for comparison with respondents' single average CV for all rose types. While it would have been preferable to disaggregate rose costs for these respondents in order to make a fair value comparison on a rose type basis, we were not able to do so in this investigation because the data were not available and we did not present respondents with a methodology for disaggregating costs. However, we intend to do so in any future administrative reviews if an order is issued. We will seek to devise a method to enable us to compute cost by rose type, which will not require respondents to change their method of recordkeeping.

Comments Pertaining to Third Country

Comment 6: Third Country as Basis for FMV

Petitioner maintains that there is no basis in law for rejecting third country prices that are adequate to establish a viable market. In addition, petitioner states that the Department's regulations state a preference for the use of third country prices, where the home market is not viable. Petitioner maintains that the statute prescribes adjustments for differences in circumstances of sale, which can take account of differences in markets, but it does not permit the Department to simply reject a viable market, due to factors other than dissimilar merchandise, for the purposes of determining FMV.

Petitioner claims that there is no evidence on the record to establish that third country prices are incompatible for comparison to U.S. prices. Petitioner questions the validity of respondents' statistical studies, claiming that the statistical analyses provided by Drs. Botero and Sykes and Lewis are unworthy of consideration because they exclude the impact of dumping in their price analyses. According to petitioner, if the Colombian and Ecuadoran growers are dumping during the several off-peak (non-holiday) months in the U.S. market, but not in other markets, such dumping would produce price changes in the U.S. market that are much sharper and greater than the price changes in Europe, thereby causing the greater volatility in the U.S. market identified by respondents. Petitioner adds that, because the Colombian and Ecuadoran imports constitute such a large percentage of the U.S. market and because they sell through consignment agents on a national basis, the supply of Colombian and Ecuadorian roses uniformly depresses U.S. prices whenever those imports oversupply the U.S. market.

Petitioner argues that the Botero and Sykes and Lewis reports are further skewed because they use the prices of a single variety of red rose, the Visa, which it asserts is the most price sensitive. Moreover, these reports did not provide source documentation showing the composition of the Dutch auction prices relied upon. Thus, it is unclear how many varieties of roses were included in the comparison database. In addition, since Colombian and Ecuadoran roses sold on the Aalsmeer auction account for only a very small portion of all roses exported to the EU, Aalsmeer prices may not be representative of Colombian and Ecuadoran rose prices in the EU.

Petitioner argues that the statements provided in the Hortimarc Report based on FTD data, which included traditional retail florists and excluded non-traditional outlets such as supermarkets, and mass merchandisers, ignores a significant number of spontaneous purchases from their analysis.

Petitioner states that the Stern & Wechsler argument regarding the opposing demand strains of the U.S. and EU market are irrelevant to the comparison of foreign market values and U.S. prices. Petitioner maintains that the U.S. market is as supply driven as any other market during non-holiday months.

Petitioner recognizes that in the second administrative review of *Fresh Cut Flowers From Colombia*, (55 FR 20491, May 17, 1990) (*Flowers*), the Department departed from its normal practice and rejected third country prices in favor of CV for the following three reasons: (1) Third country and U.S. price and volume movements were not positively correlated which showed that different forces operated in the relevant markets, in some instances, pushing prices in opposite directions; (2) third country sales only occurred in peak months which resulted in a distorted comparison of off-peak U.S.

prices to peak third country prices; and (3) the perishable nature of flowers and the inability to control short-term production resulted in ''chance'' sales.

Petitioner argues that the Department's analysis of statistical data on the record in these investigations confirmed a positive correlation in prices, thus refuting the principal finding of the *Flowers* case. In fact, petitioner argues that the basis for creating an exception to the statutory preference for price-to-price comparisons was the presence of a negative correlation. Regarding volatility, petitioner notes that in *Flowers*, the Department never required that prices be equally volatile in each market; volatility alone does not require the Department to reject a price-to-price comparison. In fact, petitioner argues that in *Flowers* the Department found differences in volatility between the U.S. and European markets and price movement in opposite directions in each market.

Regarding the second factor, petitioner observes that, unlike the *Flowers* case, third country sales of roses even occur in off-peak months and argues that the Department's six-month weighted average FMVs take into account seasonal peaks and off-peaks. Moreover, petitioner maintains that major flower buying holidays are the same in all markets and, therefore, peaks will occur at similar times in all markets.

Finally, with regard to the issue of perishability and production control, petitioner maintains that respondents may control production by pinching back rose buds. In addition, petitioner notes that there is evidence on the record indicating that third country sales of roses are stable, some occurring as a result of negotiated standing orders and, therefore, there is a lesser incidence of chance sales than was present in *Flowers*. Petitioner contends that statements by respondents regarding a potential shift of exports from third country markets to U.S. markets reveals the extent to which respondents, in fact, control, plan, and target their rose exports to certain markets.

Respondents claim that third country prices should be rejected in favor of CV because the three factors found in *Flowers* are present in these cases. With regard to the first *Flowers* factor, respondents quote empirical evidence on the record showing substantial differences in demand and pricing seasonality between U.S. and third country markets. Respondents argue that there are two principal aspects of seasonality: timing (*i.e.*, the point in time at which demand peaks and valleys occur in seasonal cycles) and volatility (*i.e.*, the magnitude of peaks and valleys). Respondents argue that, in *Flowers*, the Department relied on both differences in timing and in volatility to explain why it rejected third country prices. Respondents assert that in the rose industry, as in the flower industry: (1) The U.S. market is holiday-demand driven; (2) U.S. demand is not a stable consumption base because the majority of roses are purchased primarily as gifts; and (3) the U.S. market is demand driven. In contrast, respondents state that: (1) The European market is marked by relatively even year-round demand; (2) flower purchasing on a more regular basis (not tied to gift giving) is a deep rooted tradition in Europe; and (3) the European market is supply driven.

Respondents have submitted several statistical analyses of the different markets which, they claim, conclusively show that the seasonal demand and pricing patterns are significantly different between the markets. Respondents point to the second Botero report and the Sykes & Lewis report which states that the mere presence of a price correlation is insufficient proof that demand patterns are equivalent. Respondents contend that while petitioner criticizes their statistical analysis, petitioner has not provided any independent correlation analysis regarding U.S. and third country prices.

With regard to the second *Flowers* factor, access to third country markets, respondents claim that petitioner's own data rebut the contention that respondents have substantial continuous access to third country markets because there are no Colombian and Ecuadorian imports of roses in at least one month for every country for which petitioner has provided data. Respondents assert that petitioner's claim that Colombian and Ecuadorian production is planned with third countries in mind, and that roses are sold at the same fixed price over a period of time as a result of a pre-negotiated arrangement, is a misunderstanding of the facts on the record.

In addition, respondents claim that combining third country markets would not rectify the gaps created by the absence of sales in all months in individual markets. Respondents note that adding two markets with partial year sales is still tantamount to using only peak prices for foreign market value.

With regard to the third *Flowers* factor, respondents claim the control and perishability factor relied upon by the Department in the *Flowers* case is equally applicable to roses. Respondents cite to portions of the Department's *Roses* preliminary determination where the Department noted that there are substantial similarities between flowers and roses in perishability and short-term lack of production control. Respondents also cite to the first Tayama report which states that roses are even more perishable than fresh cut flowers.

Respondents claim that petitioner oversimplifies their argument regarding seasonality by neglecting to view all aspects of the *Flowers* exception: the unique combination of differences in seasonality between U.S. and third country markets for a highly perishable product for which production cannot be controlled in the short term. Thus, respondents maintain that the *Roses* case is a logical extension of the *Flowers* case.

DOC Position

The Department agrees with respondents. In the preliminary determination, we rejected respondents' request to use CV as the basis for FMV because we determined that the record at that time did not support the application of the *Flowers'* precedent. Since the preliminary determination, a considerable amount of new information has been submitted. Based on our review of this new information, we have determined that the records in these cases warrant rejection of third country sales in favor of CV. *See* the January 26, 1995, Decision Memorandum pertaining to third country versus constructed value from the Team to Barbara Stafford for a more detailed discussion of this issue.

Information on the record establishes that the three factors identified by the Department in *Flowers* as supporting the use of CV are satisfied in this case. First, the market for roses in the U.S. differs significantly from the markets in third countries. For example, as in *Flowers*, price and quantity within the United States' rose market are positively correlated; however, the price and quantity within Europe, Canada, and Argentina are negatively correlated.

Similarly, the U.S. market for roses, like the U.S. market for flowers, is more volatile in terms of price and quantity movements than the markets in third countries markets; the European per capita consumption of flowers is four to ten times greater than the United States, and Colombian and Ecuadorian producers have, in general, limited access to the main third country markets, *i.e.*, the Dutch auction. Thus, the differences in the rose markets are similar to the differences that existed in *Flowers.*

The second *Flowers* factor we considered was whether a comparison of third country sales to U.S. sales would require comparisons of low-price U.S. sales in off-peak months with high-price third country sales in peak months, or vice versa. In the preliminary determination, we found that this factor was not present in these investigations because: (1) There were sufficient third country sales in each month of the POI (when markets were combined); and, (2) using two six-month FMV periods reduced distortion caused by price comparisons involving peak and non-peak periods.

For purposes of this final determination, we have determined that use of third country prices could result in off-peak U.S. sales being compared with peak third country sales. While six- month averages ameliorate potential distortions, almost all of the respondents do not have third country sales in every month of the POI. It is only by combining markets that respondents have sales in each month of the POI. If we were to use third country prices as the basis for FMV, prices during peak periods in one third country could be combined with prices during peak periods in another third country. These peak prices would then be compared to both peak and non-peak periods in the United States. We find that this factor supports use of CV in these cases, albeit to a somewhat lesser degree than in *Flowers.*

The third *Flowers* factor we considered was the extreme perishability of roses—*i.e.,* the inability to control short-term production—and the resultant ''chance'' element to sales. As noted in our preliminary determinations, there are substantial similarities between the subject merchandise in these investigations and *Flowers:* (1) Roses, like flowers, are extremely perishable; (2) rose growers have relatively minor control over short-term production; (3) rose production is also affected by exogenous factors (*e.g.,* weather, disease, etc.) like other flowers; and 4) roses cannot be stored and we note that there are only very minor alternative uses (*e.g.,* drying).

In conclusion, we have determined that the factors that led the Department use CV instead of third country prices in Flowers are present in these investigations. Therefore, we have adopted CV as the basis for comparison with U.S. prices.

Comments Pertaining to Related Party Commissions

Comment 7: Related Party Commissions

Petitioner requests that commissions paid to consignment agents should be deducted from USP even where consignees are related parties. Specifically, petitioners argue that: (1) The statute directs us to deduct commissions from USP in ESP situations, without discretion to disregard U.S. commissions in related party transactions; (2) in *Timken,* the court recognized that the statute required a deduction when a U.S. importer was paid commissions, as opposed to earning ''profits;'' (3) the statute should be followed, regardless of the fact that commissions were not deducted in *Flowers*; and (4) we should deduct U.S. indirect selling expenses if such expenses exceed the related consignee's commissions, in accordance with 19 U.S.C. 1677a(e)(2).

Respondents claim that the Department's treatment in the preliminary determination of related party sales commissions is invalid. They argue that deducting the related importer's commission from U.S. price has the effect of deducting the importer's profit, which the Department does not have the authority to do. The Department should deduct the importer's actual selling expenses rather than intra company transfers. Respondent's argue that the Department's approach is inconsistent with past practice since related party commissions have never been treated as a direct selling expense, but rather have been collapsed in the past for the purposes of determining U.S. price and expenses. Moreover, respondents assert that the Department's statute and regulations do not authorize the Department to deduct the higher of related party commissions or related party actual expenses. Respondents claim that in selectively choosing deductions of commissions or actual expenses, the Department fails to account for the fact that the commission it treats as a cost is also sales related income to the related importer. Respondents maintain that the Department should ignore the sales commissions paid between related parties on ESP sales, regardless of whether such commissions are at arm's length, and treat as U.S. indirect selling expenses the importer's share of operating and selling expenses allocable to the exporter's subject sales.

DOC Position

The difference between a related consignee's commission and the related consignee's U.S. indirect selling expenses is equal to the related consignee's profit. The Department does not deduct profit from USP in ESP transactions because the law does not allow it. 19 CFR 353.41(e)(1) and (2) do, however, instruct us to make adjustments in ESP situations for commissions and expenses generally incurred by or for the account of the exporter in selling the merchandise.

With respect to treatment of related party commissions paid in the U.S., we have in the past looked to the definition of ''exporter'' which provides that related party importers are to be collapsed with, and treated as part of, the exporter. 19 U.S.C. 1677(13). In this context, it is inappropriate to treat a commission the exporter has paid to itself as an expense. The expense is the actual costs incurred by or for the account of the exporter.

In *LMI-Le Metalli Industriale, S.p.A.* v. *United States,* 912 F.2d 455, 459 (Fed. Cir. 1990) (*LMI*), the CAFC indicated that related party commissions can and should be adjusted for if the commissions are at arm's-length and are directly related to the sales under review.[1] By implication, an arm's-length commission includes the actual indirect selling expenses incurred by the commissionnaire and the commissionnaire's profits. Thus, *LMI* allows us to deduct the profits that are implicit in the commission. The facts in *LMI,* however, are distinguishable from the facts in these investigations. In *LMI,* the Court directed the Department to adjust for sales commissions paid to a related subsidiary of the respondent in the home market. The sales on which the commissions were paid in the home market were purchase price-type transactions made with the assistance of the related party selling agent. The issue of how to treat any selling expenses incurred by the related party selling agent in addition to commissions earned by that related party selling agent did not arise in *LMI.*

In the instant investigations, the sales on which the commissions were paid are ESP transactions where, because the importer of the merchandise is related to the exporter, we collapse the two pursuant to 19 U.S.C. 1677(13) and base USP on the sale to the first unrelated party. In contrast to *LMI,* therefore, the

[1] In *Coated Groundwood Paper from Finland,* 56 FR 56363 (November 4, 1991), which was subsequent to *LMI,* we developed guidelines to determine whether commissions paid to related parties, either in the United States or in the foreign market, are at arm's-length. If, based on the guidelines, we found commissions to be at arm's-length, we stated that we would make an adjustment for such commissions.

producer and its related party selling agent in these investigations are collapsed. Thus, the commission represents an intracompany transfer of funds. Under these circumstances, our past practice of ignoring intracompany transfers is still applicable.

Furthermore, ESP transactions are fundamentally different from purchase price transactions in that, with respect to ESP transactions, 19 U.S.C. 1677a(e), specifically allows for deductions of indirect expenses. In contrast, with respect to purchase price transactions, 19 U.S.C. 1677a(d) only allows an adjustment for indirect expenses when there are commissions in one of the two markets. Therefore, when commissions are paid in an ESP situation, the opportunity for double counting exists; this problem does not arise in a purchase price situation like the one reviewed by the Court in *LMI.*

Whether the sales involved are purchase price or ESP, the Department's goal is to derive a reliable USP by subtracting actual expenses from actual sales prices. A commission paid by the exporter to its collapsed related importer is not an expense incurred by the exporter; rather the actual expenses incurred by the exporter are the indirect selling expenses of the related consignee.

At the preliminary determination, we determined that related party commissions were directly related to the sales under consideration. However, we agree with respondents and, for the final determination, considered commissions an intracompany transfer. We have therefore, deducted only the amount of U.S. indirect selling expense for all companies with related party commissions.

Comments Pertaining to Accounting

Comment 8: Inflation Adjusted Depreciation and Amortization

Petitioner argues that the Department should compute respondents' depreciation expense based on asset values which, in accordance with Colombian GAAP, have been adjusted to reflect the effects of inflation. Petitioner notes that respondents computed depreciation charges for rose production costs based on the historical cost of the underlying fixed assets. Petitioner maintains that because of the effects of inflation on prices, respondents' methodology inappropriately matches historical depreciation charges based on past price levels with revenues generated from the sale of roses at current price levels.

Petitioner notes that in past cases involving hyperinflationary economies, the Department has corrected for the effects of inflation by computing cost of production based on respondent's replacement costs. Petitioner argues that although the POI inflation rates in Colombia did not meet the Department's normal hyperinflation threshold, the annual rate of inflation nevertheless has been so substantial as to cause the government to adopt accounting standards that require an adjustment for inflation. Thus, according to petitioner, the Department must correct respondents' reported depreciation expense in order to avoid distorting the cost of rose production.

Respondents claim that the Department should accept their submitted rose production costs without taking into account the effects of the inflation adjustment on depreciation expense. Respondents argue that, although the inflation adjustment may result in additional costs in their financial statements, these are not actual, historical costs. Instead, the inflation adjusted costs are ''phantom'' costs required by tax law, but not specifically addressed under GAAP.

Respondents maintain that the purpose of the tax law was to generate tax revenues for the government, because any write-up of fixed assets due to inflation results in additional income that must be recognized in a firm's financial statements. Respondents contend that if the Department determines that it must include the effects of the fixed asset inflation adjustment in respondents' rose CV, then it also must reduce CV by the amount of financial statement income generated by the adjustment. Respondents note that such income is directly related to production and, thus, there is no basis for failing to offset costs if the inflation adjustment is included in CV.

Additionally, respondents claim that the Department already effectively makes an inflation adjustment through the use of monthly exchange rates in its computer program. Respondents state that the exchange rate is related to differences in the two countries rates of inflation, and the use of such exchange rates has an effect equivalent to making the year-end inflation adjustment.

DOC Position

We agree with petitioner that respondents' failure to follow their normal accounting practice of adjusting depreciation and amortization expenses for the effects of inflation distorts rose production costs for purposes of our antidumping analysis. The exclusion of the inflation adjustment results in costs which are not reflective of current price levels and thus produces an improper matching of revenues and expenses. Therefore, we have revised the submitted COP and CV figures to reflect inflation- adjusted depreciation and amortization expenses based on the growers' normal accounting practices.

We disagree with respondents' claim that the Department's use of monthly exchange rates effectively makes an inflation adjustment, because the exchange rates are being applied to costs which are reported in understated foreign currency. To avoid distortion in production costs, we have used annual average constructed value figures and converted them to U.S. dollars using a weighted-average exchange rate based on the monthly volume of roses sold by each grower.

We also disagree with respondents' assertion that income resulting from the inflation adjustment is directly related to production and should be applied as an offset to financial expense. This annual revaluation of non-monetary assets does not represent income during the POI. Instead, it merely reflects an increase to respondent's financial statement equity due to the restatement of non-monetary assets to account for inflation.

Comment 9: Statutory General Expenses and Profit

Petitioner claims that statutory general expenses and profit should be based on third country sales, since third country sales and third country profit and general expenses would be used as a basis for FMV when home market sales are not available.

Respondents maintain that the facts of this case and the statute require that Department calculate profit on the basis of home market sales, particularly since the Department made a finding in its preliminary determination that home market sales of export quality roses were made in the ordinary course of trade. In addition, respondents note that where the Department used third country price comparisons in its preliminary determination, if in the final determination the Department chooses to reject third country prices in the final determination in favor of CV, it cannot use annual average third country profit margins in calculating CV, because this would be the equivalent of comparing an annual average third country price to a monthly average U.S. price.

DOC Position

In calculating CV, we used selling expenses based on U.S. surrogates and the eight percent statutory minimum for profit where there was not a viable home market for export quality roses.

Where there was a viable, but dissimilar, third country markets, we used U.S. surrogates and the eight percent statutory profit because we have determined that third country markets do not provide an appropriate basis for foreign market value. *See* Comment 6 above.

We used U.S. selling expenses as a surrogate even though certain producers had viable home markets for culls which are included in the general class or kind of merchandise.

19 U.S.C. 1677b(e)(1)(B) states that the CV of imported merchandise shall include an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual commercial quantities and in the ordinary course of trade, except that—

(i) The amount for general expenses shall not be less than 10 percent of the cost as defined in subparagraph (A), and (ii) the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost.

19 CFR 353.50(a) states that if FMV is based on CV, the Secretary will calculate the FMV by adding general expenses and profit usually reflected in sales of merchandise of the same class or kind of merchandise.

However, in the final determination of *Certain Granite Products from Italy,* 53 FR 27187, 27191–2 (July 19, 1988)(comment 15), the Department stated that, due to the uniqueness of one of the such or similar categories of merchandise, there was no comparability between sales in the home market and sales in the United States. Therefore, the Department used the U.S. selling expenses as a surrogate in computing CV instead of home market selling expenses. As in *Certain Granite Products from Italy,* we find that, in the instant investigations, culls are not representative of the merchandise sold in the United States, as these products are by definition not export-quality.

Comment 10: Allocation of Production Costs to Cull Roses

Respondents argue that the Department incorrectly calculated CV by requiring growers to allocate production costs only to export quality roses, thereby assigning no costs to cull roses. Respondents note that because cull roses are included in the class or kind of merchandise, they should be allocated a share of production costs equal to that of export quality roses. Respondents point out that the Department has never held that a product covered by an investigation should be treated as a byproduct having no cost. Respondents also argue that the Federal Circuit in *Ipsco, Inc.* v. *United States,* 965 F.2d 1056 (Fed. Cir. 1990) defined byproducts as ''secondary products not subject to investigation.''

Petitioner asserts that cull roses should be categorized as byproducts to which, from an accounting standpoint, no production costs should be allocated. Petitioner claims that an appropriate measure for determining whether a specific product represents a byproduct or coproduct is to determine if the production process would still be performed if the product in question was the only one produced. According to petitioner, no rose grower would establish operations solely for the purpose of growing culls for sale and, therefore, cull roses are unmistakably byproducts. Petitioner notes that ITA has consistently and correctly treated cull roses as byproducts, with revenues earned from their sale being properly recognized as other income and, thus, deducted from the cost of producing export quality roses.

DOC Position

We disagree with respondents' claim that CV was calculated incorrectly by not allocating any production costs to cull roses. When determining how to allocate costs among joint products, the Department normally relies upon generally accepted accounting principles (GAAP) to prescribe an appropriate cost allocation methodology. One of the factors used to assess the proper accounting treatment of jointly-produced products examines the value of each specific product relative to the value of all products produced during, or as a result of, the process of manufacturing the main product or products. In this regard, the distinguishing feature of a byproduct is its relatively minor sales value in comparison to that of the major product or products produced.

The Department's general practice in agricultural cases has been to offset the total cost of production with revenue earned from the sale of the reject agricultural products. The cultivation costs, net of any recovery from byproducts, are then allocated over the quantity of non-reject product actually sold. *See, e.g., Fresh Cut Flowers from Colombia,* 52 FR 6844 (March 5, 1987); *Fresh Cut Flowers from Peru,* 52 FR 7003 (March 6, 1987); *Fall-Harvested Round White Potatoes,* 48 FR 51673 (November 10, 1983); *Fresh Cut Roses from Colombia,* 49 FR 30767 (August 1, 1984).

In *Asociacion Colombiana de Exportadores* v. *United States,* 704 F Supp. 1114, 1125–26 (CIT 1989), the Court found that ''[c]ulls were often disposed of as waste, or if saleable, were sold for low prices in the local market. ITA's treatment of non-export quality flowers as a byproduct was supported by substantial evidence. The record indicates that cull value was relatively low and that the production of culls was unavoidable. These both have been recognized by ITA in the past as indicia of byproduct status.'' The CIT further noted, ''[c]ull value, if determinable, should be deducted from cost of production and production costs should not be allocated to culls.''

For each respondent in this investigation, the total revenue generated from the sale of cull roses was minimal when compared to the revenue generated from the sale of export quality roses. Other facts concerning the production and sale of cull roses are also consistent with those found in the investigation and subsequent administrative reviews of *Flowers.* We therefore find that it is appropriate to treat cull roses sold in the home market as a byproduct of the production of export quality roses. This treatment is consistent with the Department's previous practice of accounting for culls as a byproduct in the calculation of COP and CV.

Finally, we disagree with respondents' argument that the inclusion of cull roses in the class or kind of merchandise compels the Department to use a particular cost accounting methodology. A decision that a particular product is, or is not, within the scope of a proceeding does not dictate, or necessarily have any relationship to, the selection of the particular cost accounting methodology that must be applied in the determination of COP and CV.

Unlike respondents, we do not read the Federal Appeals Court's decision in *Ipsco* as standing for the proposition that in all circumstances a byproduct for accounting purposes cannot be within the class or kind of merchandise as that term is defined under the Act. Moreover, as discussed above, our decision in this regard has been explicitly upheld by the CIT.

Comment 11: CV—Interest Expense

Respondents argue that the Department grossly overstated each respondents' net interest expense in calculating CV by using total company-wide interest expense instead of the expense allocable to rose production. Respondents request that the Department correct its preliminary calculations in line 38 of the CV tables, and using the allocated per unit interest expense calculated on the spreadsheet.

Petitioner agrees with respondents that net interest expenses were potentially overstated in the preliminary determination and ITA should allocate interest expenses on a sales dollar basis to roses and then to rose stems, provided that interest expenses reported were in fact reported with respect to all sales of all rose types to all markets.

DOC Position

We agree that for some respondents we incorrectly assigned total company-wide financial expenses only to roses. For purposes of the final determination, we allocated net financial expenses to roses and non-subject merchandise using one of the following methodologies, each of which we consider reasonable: cultivated area, cost of sales or cost of cultivation. We computed a per stem financial cost by dividing the net financial expenses related to roses by the total export quality of stems sold.

Comment 12: CV—U.S. Indirect Selling Expenses

Respondents allege that the Department incorrectly included U.S. indirect selling expenses incurred by respondents' related importers in its calculation of constructed value. Respondents claim that including these expenses in constructed value artificially inflated the FMV, since these expenses would never have been incurred to sell roses in the home market. In addition, respondents object to the Department's calculation of an eight percent profit on these expenses, while at the same time deducting related party commissions, and thereby all profit earned by the related importer, from U.S. prices. Respondents hold that the Department should include only all selling expenses incurred in Colombia and Ecuador in its calculation of CV.

Petitioner claims that the Department should include in constructed value direct and indirect selling expenses equal to those expenses incurred in third country markets, unless such markets are not viable. And, to the extent that the Department deems home market sales to be within the ordinary course of trade, and in the event that the home market for any given respondent was viable, then the Department should add home market selling expenses to constructed value. Petitioner states that, in the absence of selling expenses from either the home or third country market, the Department's practice is to add U.S. selling expenses in computing SG&A.

DOC Position

For those companies with viable home markets, we used home market indirect selling expenses. For those companies without viable home markets we used U.S. indirect selling expenses as a surrogate. *See* Comment 9 above. Respondents' objection to deduction of related party commissions is addressed in Comment 7 above.

Comment 13: Per Unit CV in Dollars

Respondents argue that the Department's methodology used to obtain the per unit CV in dollars produces a distorted, declining per unit dollar CV. Respondents note that the Department's method involves converting annual average per unit foreign-denominated costs to monthly per unit dollar figures using the monthly exchange rate, which in part reflects a relatively high inflation rate. Respondents claim that in order to properly obtain the average per unit CV, the Department should first convert each month's total foreign-denominated costs using that month's exchange rate, and then sum these monthly dollar costs for the period. Next, the total dollar costs should be divided by the total quantity of roses sold to obtain the average per unit CV in dollars for the period.

Petitioner does not object to respondents' request for modifications in the Department's methodology, although petitioner suggests that such modifications are unnecessary. If modified however, petitioner argues that it is inappropriate to apply a foreign-dominated interest rate in order to calculate imputed credit costs, unless the exchange rate is also adjusted for currency devaluation.

DOC Position

We agree that in this case the Department's previous methodology used to obtain per unit constructed value in U.S. dollars did not provide an accurate result. In order to avoid distortion, we have converted home market cost in local currency to U.S. dollars using the annual average exchange rate.

Comment 14: Home Market Price Cost Test

Respondents maintain that the Department's sales below cost test does not test whether a particular product is sold below its cost of production. Respondents argue that the Department's normal methodology is to compare prices to model-specific COPs. Because respondents were only able to supply the Department with average COP information representing an entire range of rose production, they argue that the Department should compare annual average COP figures to average home market prices of all varieties and stem lengths.

Additionally, respondents state that, to account for price seasonality, the Department must use annual home market average prices to properly test whether home market sales prices permit the recovery of costs in a reasonable time. Respondents refer to the Botero Report as evidence that the unusual seasonal prices of roses allow for ''below average costs over periods of time, including months, that do not cover a full price cycle.''

Petitioner argues that the court has rejected the comparison of production costs with average home market prices. *See, Timken Co.* v. *United States,* 673 F. Supp. 495, 516–17 (CIT 1987).

DOC Position

While it is our normal practice in determining sales below cost to compare the price of each sale in the home market to the cost of production (COP) of that product during the period under investigation, in these investigations we were not able to do so because the respondents do not segregate their cost data by rose type, variety and stem length. As a result, we determined that to compare one yearly COP (the POI in these investigations is one year), which combines all export quality rose costs to prices for each variety of export quality roses would not be appropriate. *See* Comment 5 above. Instead, we combined prices of home market sales for all varieties on a monthly basis to our annual COP, in conforming with our modified cost test for agricultural products, as discussed below in Comment 15.

Although respondents urge the Department to combine individual sales prices for all export quality roses in the home market on a yearly basis to compare to the yearly COP calculation for export quality roses, respondents have not persuaded us that such a radical departure from our procedure is warranted in these circumstances. As discussed in Comment 15, the Department has a specific test for determining whether or not sales are below cost that encompasses recovery of costs within a reasonable time, which we have applied here.

Comment 15: 50–90–10 Test

Respondents maintain that the Department originally intended to change its 10–90–10 test to a 50/50 test whereby, if less than half of all sales were below cost, then all sales should be used in creating weighted-average

FMVs, and if half or more of the sales were found to be sold below cost, then home market sales would be rejected in their entirety and FMV would be based on CV.

Petitioner maintains that respondents have misrepresented the Department's past practice and ignored judicial precedent. Petitioner maintains that the current 50–90–10 test by which the Department removes from consideration ''significant'' quantities of sales made below COP but uses those sales made above cost, is correct. Petitioner maintains that the courts supported the Department's use of remaining above-cost sales as sufficient for FMV in *Timken Co.* v. *United States,* 673 F. Supp. 495, 516–517 (CIT 1987), and that the basic principle applies to all products.

DOC Position

We disagree with respondents. The Department has an established practice which takes into account the realities of selling perishable agricultural products. In *Final Determination of Sales at Less Than Fair Value: Certain Fresh Winter Vegetables from Mexico,* 45 FR 20512, 20515 (March 24, 1980), after examining the nature of sales of vegetables, the Department determined that it was a regular business practice to make a relatively high number of sales of the subject merchandise below cost because of the perishability of the product, which rapidly ages into non-salable merchandise. As a result, the Department determined that were it to apply the normal below cost test used for nonperishable products, *i.e.*, the 10–90–10 test, this would not fairly reflect the economic realities of the fresh vegetable industry. As a result, the Department concluded that it would permit all sales at below cost to remain in the FMV comparison unless more than 50 percent were found to be below cost.

This modified test was clarified in a review of *Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico,* 58 FR 1794, 1795 (January 17, 1991), wherein the Department explicitly stated that the test to be applied for determining sales below cost for perishable agricultural products was a 50–90–10 test, *i.e.*, if between 50 and 90 percent of home market sales consisted of prices below cost, then only the below cost sales were disregarded, while if over 90 percent of sales were below cost then all sales in the home market were disregarded. *See Final Results of Antidumping Duty Review: Certain Fresh Cut Flowers from Mexico,* 56 FR 1795, 1795 (January 17, 1991).

This modified test still remains our current practice and respondent's rationale for the adoption of a straight 50–50 test is an unmerited modification. Were we to adopt respondents' either/or position, *i.e.*, if less than 50 percent are below cost we will use all sales, and if more than 50 percent we will disregard all sales, then we would, in effect, be concluding that 11 percent of widget sales above cost are sufficient to be the basis for FMV but that 49 percent of rose sales above cost are insufficient. This is a an illogical result, which we are not prepared to accept.

Comment 16: Duty Deposit Rate—Roses Shipped But Not Sold

Respondents urge the Department to adjust the deposit rate to reflect the fact that many roses imported into the U.S. perish or are destroyed prior to sale. To avoid over collecting duty deposits on roses that never reach the U.S. market, and since there is no way of distinguishing between roses that will be sold and roses that will be destroyed at the time of entry, respondents argue that the duty deposit rate should be adjusted downward to reflect the quantity of roses shipped to the United States, but not sold. This practice is being used in *Flowers.* Respondents suggest the Department multiply any *ad valorem* rates it calculates by the ratio of total quantity sold divided by total quantity shipped, as reported by each respondent.

Petitioner states that all imports at the time of importation are potentially for sale and, therefore, must bear the appropriate cash deposit rate. Because the percentage of roses that will go unsold varies due to season, weather, problems in transportation, etc., petitioner argues that there is no accurate way to adjust for this potential impact.

Additionally, petitioner states that if the Department does adjust the duty deposit rate to account for roses shipped but not sold, than it is appropriate to adjust the deposit rate to reflect the fact that values entered by Customs are arbitrarily established on consignment entries. Petitioner argues that the use of the calculated USP to derive a cash deposit rate may bear no relation to the value used by Customs for collecting duties. Therefore, petitioner believes that the duty deposit rate should be adjusted upwards so that the duty amount collected reflects the potentially uncollectible duty deposits calculated in the final determination.

DOC Position

We disagree with respondent that the duty deposit rate should be adjusted for roses shipped but not sold. We do, however, agree with respondent, in part, that such adjustment is appropriate for assessment purposes, which are distinct from duty deposit purposes. In the case cited by respondents, *Fresh Cut Flowers from Colombia* 55 FR 20491 (May 17, 1990), the Department indicated that it would make such an adjustment in preparing assessment instructions to the Customs Service. The Department did not make such an adjustment to the duty deposit rates in that case and has not done so in subsequent reviews.

We agree with petitioners that all imports at the time of importation are potentially for sale, and that the percentage of roses which go unsold varies with the seasons. Moreover, this percentage will likely vary with each producer and reseller. Thus, any adjustment contemplated would be speculative. It is preferable to wait until the Department prepares assessment instructions on entries covered by these deposit rates and then make such an adjustment based on the actual experience of the affected companies.

Comment 17: Cash Deposits—The Department's Sampling Technique

Respondents claim that the all others cash deposit rate calculated by the Department is not based on a representative sample of the Colombian rose exporting population—it merely reflects the experience of 16 of the largest exporters. Furthermore, according to respondents, the all others rate disregards the representativeness of such experience. Respondents maintain that this is inconsistent with the Department's statutory requirement that any averages and samples used must be representative of the whole. *See* 19 U.S.C. 1677f–1(b).

DOC Position

We disagree with respondents. The Department's normal practice, in accordance its regulations, is to select that number of the largest exporters of the subject merchandise needed to represent 60 percent of the imports into the United States from the country under investigation. Due to the large number of companies needed to reach 60 percent of imports in this investigation and the administrative burden it would put on the Department's resources to investigate these companies, the Department selected the 16 largest exporters representing over 40 percent of the imports into the United States. *See* the May 2, 1994, Decision Memorandum from the Team to Barbara Stafford.

The methodology used by the Department maximized its coverage of imports into the United States. The technique of selecting the largest exporters was employed in the *Preliminary Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan,* 55 FR 17779 (April 27, 1990). The other suggested sampling methods, stratified and random, were not selected due to the lack of sufficient industry-wide information on the universe of Colombian and Ecuadorian rose growers (approximately 400 companies in Colombia and 100 companies in Ecuador). The collection and analysis of data to determine an appropriate sampling technique was not reasonably within the power of the Department to undertake. Therefore, we have chosen the most representative sample under the circumstances.

Comment 18: Duty Deposit Rate for Volunteer Companies

Respondents argue that the due process clause of the Fifth Amendment to the U.S. Constitution precludes the Department from requiring cash deposits with respect to companies that the Department refused to investigate. Respondents cite *Kemira Fibres Oy* v. *United States,* Slip Op. 94–120 (CIT July 26, 1994) to support their argument that due process is required in antidumping proceedings. Such a course, according to respondents, would represent an unconstitutional deprivation of property without due process of law. Respondents maintain that the cash deposit rate must be set at zero, and that all cash deposits paid to date should be refunded, and any bonds posted should be lifted, for all companies ready and willing to participate, but not chosen by the Department.

Petitioner also refers to *Kemira Fibres* to support its argument that procedural due process guarantees do not require trial-type proceedings in all administrative determinations. Additionally, petitioner maintains that, as long as the Department adheres to the procedures mandated by Congress and implemented in the Department's regulations, then the Department has afforded interested parties the process due. These regulations, according to petitioner, allow interested parties the right to appear and submit their views on the proceedings of an investigation, but they do not require the Department to investigate every company that requests a company-specific margin.

DOC Position

We agree with petitioner. Although it is the Department's practice to accept voluntary respondents when we have the administrative resources to do so, the Department's regulations do not require that we accept responses from voluntary respondents. Furthermore, pursuant to 19 CFR 353.14(c), the Department is required to investigate exclusion requests only ''to the extent practicable in each investigation.''

Due to the large number of producers and limited administrative resources, the Department was unable to follow its standard practice of investigating 60 percent of the exports of roses into the United States. Accepting these voluntary respondents and investigating exclusion requests would have reduced the number of ''mandatory'' respondents we could select. Because the Department is not required to investigate all voluntary respondents and requests for exclusion, and because the Department followed its regulations and policy concerning voluntary respondents and exclusion requests, we have afforded interested parties the process due.

Comment 19: Amortization and Preproduction Costs

Petitioner argues that the Department should not allow respondents to amortize rose plant costs over periods which exceed the useful lives of rose plants, as reported in respondent's normal accounting records.

Petitioner asserts that amortization of rose plants and preproduction costs should be based on the methodology used by respondents to report their production costs in accordance with normal corporate accounting practices and pursuant to Colombian generally accepted accounting principles (''GAAP''). Petitioner states that it is the Department's well-established and longstanding practice to prohibit respondents' departures from normal practices, except in those instances where those normal accounting practices would distort production costs.

Petitioner claims that the useful lives normally used by these companies are preferable, as they are a function of each grower's plant varieties and cultivation methods. Petitioner states that respondents have not submitted any evidence to establish that their normal accounting practices result in a material distortion of costs or that the useful lives normally used by these companies are unreasonably short. Petitioner also claims that the normal practices of these respondents reflect the preferred cycle for replanting roses.

Respondents claim that the reported rose plant and preproduction costs should be accepted by the Department, since they accurately reflect production costs during the POI and achieve a proper matching of costs and revenues. Respondents contend that their normal financial accounting practices are designed to minimize their taxable income. According to respondents, Colombian tax law (which forms the basis for the growers' GAAP accounting practices) is relatively unrestrictive and allows for the amortization of rose plant and preproduction costs over periods that are in some instances far less than the useful lives of the underlying assets.

Respondents assert that the amortization expense recorded in their financial statements should not be used by the Department, because these amounts do not reflect the amortization of capital expenses over the appropriate period, resulting in a distortion of the production costs of the subject merchandise. Respondents state that evidence on the record regarding their growing practices, plant varieties and cultivation conditions confirms that the useful life of rose plants in Colombia is at least eight to ten years, although such costs are commonly amortized over shorter periods in respondents' books. As support for their position, respondents cite *Fresh Kiwifruit from New Zealand,* 57 Fed. Reg. 13695, 13703 (1992), where the Department required growers to amortize the cost of kiwi fruit vines over the useful lives of the plants despite the fact that, for financial accounting purposes, the cost of the vines had been recognized as an expense in the year of purchase.

DOC Position

We agree with respondents. The Department typically requires respondents to report production costs pursuant to their home country GAAP. The use of home country accounting principles provides the Department with an objective standard by which to measure costs, while allowing respondents a predictable basis on which to compute those costs. However, the Department may reject the use of home country GAAP as the basis for calculating production costs if it is determined that the accounting principles at issue unreasonably distort or misstate costs for purposes of an antidumping analysis. In these instances, the Department may use alternative cost calculation methodologies that more accurately capture the costs incurred during the period of investigation or review.

In determining whether a respondent's normal GAAP depreciation policies are distortive for purposes of our antidumping analysis, it is clearly not the Department's purpose to judge the reasonableness of each asset's depreciable life on an asset-by-asset basis. Under most circumstances, the depreciable life of an asset is based on the purchaser's best estimate of the asset's economic life at the time of purchase. Obviously, there are any number of events, unforeseen at the time of purchase, that could serve to lengthen or shorten the asset's actual physical life. Typically, the Department does not attempt to account for the fact that estimations of useful life are not always accurate.

In this case, however, we found that Colombian accounting principles permitted growers significant latitude in determining the depreciable lives of their rose plants and in accounting for preproduction costs. Moreover, respondents provided reasonable evidence to support the fact that the useful lives recorded in financial statements were, in many cases, shorter than the plants' economic useful lives. The growers' decision to amortize their rose plant costs over shortened periods appears to have been driven largely by Colombian tax considerations rather than by the basic accounting principle of matching costs and revenues. Therefore, we have accepted respondents' rose plant and preproduction amortization expense calculations for purposes of computing COP and CV, provided that they had correctly capitalized and amortized these same assets from previous years.

U.S. Price Adjustments

Comment 20: Invoice Discrepancies

Petitioner argues that the Department should reject or adjust U.S. prices to account for discrepancies between invoice amounts and ''registro'' prices (the price that appears on official Colombian export documentation) recorded in respondents' books and records.

Respondents argue that there is no merit to petitioner's suggestion that declared Colombian registro prices should be used rather than actual U.S. selling prices. Respondents explain that registro prices represent the growers best estimate of prices. Moreover, respondents assert that registro prices do not meet the statutory definition of U.S. price since they are not the price at which merchandise is sold or agreed to be sold in the United States, nor are they the price at which merchandise is purchased.

DOC Position

We agree with respondents. Due to the volatility of the rose market and the fact that sales are made to unrelated consignees, it is impossible for respondents to accurately record U.S. price at the time of export, thus requiring estimates on export documentation, *i.e.*, registro prices. The amounts listed on the registros do not meet the Department's definition of U.S. price.

Comment 21: Interest Rate

Respondents claim that it is against Department practice and prevailing case law (*United Engineering & Forging* v. *United States, LMI–La Metalli Industriale, S.p.A.* v. *United States*) to apply a Colombian peso interest rate to a U.S. dollar account receivable in calculating U.S. imputed credit expenses. Respondents argue that, in accordance with *Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan,* 59 Fed Reg. 38432 (1994), the Department should have used the lowest interest rate at which respondents borrowed or to which respondents had access, namely the U.S. prime rate.

Petitioner argues that it is inappropriate to estimate a U.S.-dollar denominated interest rate where loans were actually obtained in pesos. Petitioner cites to *Flowers*, where the Department held that ''where there were no U.S. borrowings, we used the actual peso borrowing rate, adjusted to reflect the fact that the credit expense was incurred in dollars and not pesos.'' *See Certain Fresh Cut Flowers from Colombia,* 59 Fed. Reg. 15,1159, 15,164 (March 31, 1994). Petitioner defends the appropriateness of the Department precedent of adjusting the borrowing rate for devaluation. Petitioner notes that such an adjustment reflects that net borrowing costs are lowered to the extent that the dollars later received will be worth a larger number of pesos.

DOC Position

We agree, in part, with respondents. In determining the U.S. interest rate, it is the Department's policy that the interest rate used for a particular credit calculation should match the currency in which the sales are denominated. In cases where there are no borrowings in the currency of the sales made, the Department may use external information about the cost of borrowing in a particular currency (see, *Memorandum from Susan Kuhbach to Barbara R. Stafford: Proposed Change in Policy Regarding Interest Rates Used in Credit Calculations,* dated September 26, 1994). Therefore, the Department used a U.S. short-term interest rate of 7.575 percent, which is the average of the publicly ranged interest rates reported by those respondents that had actual U.S. borrowings during the POI. We consider this to be the best estimate of the U.S. dollar borrowing rates for those respondents that had no short-term borrowings, as it is based on best publicly available data of the actual experience of other rose growers.

Comment 22: Adjustment to Interest Rate

The parties' further arguments concerning the appropriate Colombian peso interest rate are rendered moot.

Company-Specific Comments

Because the Department is using constructed CV rather than third country prices, the parties' comments concerning the appropriate methodology in comparing USP to third country prices are moot. Therefore, we have not addressed company-specific comments relating to this issue. Furthermore, because the Department is using monthly average USPs for all roses, regardless of stem length, variety, or color, the parties' comments concerning issues of stem length, variety, rose type, and rose color are also moot and are not addressed.

Agrorosas S.A.

Comment 23

Respondent argues that the Department should not consider the air ticket and travel expenses, discovered during verification in its accounting records, as indirect selling expenses since these expenses had no relation to the production and sale of the subject merchandise. According to respondent, the air ticket and travel expenses discovered during verification were the personal expenses of one of the company's shareholders (''the shareholder'') who was not employed in any capacity other than as a member of respondent's board of directors. Therefore, respondent maintains that ''the shareholder's'' personal travel was not related to the sale or production of the subject merchandise. Respondent further maintains that the air ticket invoices examined by the Department during verification provide proof that the travel and air ticket expenses in question were the personal expenses of ''the shareholder''.

The petitioner, on the other hand, argues that the travel expenses should be added to the reported indirect selling expense because there is no evidence that the travel expenses shown in the company's accounting records are unrelated to rose sales. According to the petitioner, a presumption arises from the company's books and records that these expenses were related to the company's sales.

DOC Position

Respondent included entertainment expenses as part of the indirect selling expense reported to the Department. As the Department established during its verification of the respondent, those entertainment expenses included, among others, entertainment expenses related to business trips made to the United States and in Colombia during the POI. These business trips were made by company officials as well as by the shareholder referred to above. The reported entertainment expenses did not include any travel or air ticket expenses associated with the business-related trips to the United States and in Colombia. During verification, the Department discovered unreported air ticket and travel expenses recorded in the company's accounting records.

Although we could not ascertain during verification whether all of the travel and air ticket expenses were related to rose sales, we conclude that at least a portion of these expenses were related to rose sales.

First, since the company incurred business-related entertainment expenses attributable, in part, to company officials' trips to the United States and in Colombia, the company must have incurred related air ticket and travel expenses for these trips. Second, because the shareholder, referred to above, was one of the company officials making business trips to the United States and in Colombia, it is reasonable to assume that at least a portion of the air ticket and travel expenses invoiced to the company for that shareholder must have been related to business as well. Finally, the air ticket and travel expenses were officially recognized in the company's accounting records as business-related expenses.

For the reasons outlined above, the Department cannot ascertain whether the air ticket and travel expenses were not tied to the sales of roses. However, because companies are required to report air ticket and travel expenses as expenses related to sales in the companies' audited financial statements, this provides a more reliable source of information as to the manner in which these expenses should be treated. Therefore, the Department included, as BIA, the entire amount of the air ticket and travel expenses discovered during verification in the calculation of the indirect selling expenses related to respondent's rose sales.

Comment 24

The respondent maintains that it did not report any foreign inland freight expenses for the truck used to transport flowers to the airport in the months of January and February because the truck owned and used by respondent during those months was fully-depreciated and reflected no costs on respondent's records. The respondent further states that the truck rental expenses for the month of October of the POI were included in the amount reported in the month of December because the company was billed for the month of October in the month of December. Therefore, the respondent requests that the Department not use BIA for trucking expenses in those three months.

The petitioner argues that there is no evidence on the record that respondent did not incur truck rental expenses for the month of January.

DOC Position

In the Department's preliminary determination we used, as BIA, the monthly average truck rental expenses for the months of January, February and October because respondent reported no trucking expenses for those months. However, at verification, we established that respondent used its fully-depreciated truck for the months of January and February, and we found no record of expenses related to the operation of respondent's truck during those months. We found that respondent began renting a new truck beginning in February 1993, while it continued to use its fully depreciated truck until the end of that month. We also established that the truck rental expenses not reported for the month of February were included in the amount reported for the month of March. Similarly, the truck rental expenses not reported for the month of October were, in part, included in the amount reported for the month of December.

Because we found no evidence of expenses related to respondent's truck for the months of January and February, and because we established that respondent included the truck rental expenses for the months of February and October in the amounts reported to the Department for following months, the Department used these actual expenses, and not BIA, in its calculations of these freight expenses.

Comment 25

The respondent requests that the Department not use BIA for the fuel expenses related to the transportation of roses that respondent was unable to separately identify and report to the Department in its questionnaire responses. Instead, the respondent requests that the Department use the estimated monthly fuel expenses examined by the Department during verification.

The petitioner maintains that the estimated fuel and maintenance costs were submitted for the first time during verification and should, therefore, not be accepted as a basis for a final determination. The petitioner further maintains that the purpose of verification is to verify the accuracy of the respondent's information already submitted on the record, not to collect new information. Therefore, the petitioner requests that the Department use BIA in its calculation of such foreign inland freight expenses.

DOC Position

We agree with the respondent. In its August 24, 1994, submission, respondent stated it could not determine the value of fuel expenses related to the transportation of roses separately. However, respondent also stated that it included fuel expenses related to the transportation of roses in the fuel purchase expenses reported in the CV table (see Appendix 7 of the respondent' August 24, 1994, submission). Absent any specific information on the fuel expense related to the transportation of roses, the Department, in its preliminary determination, used as BIA the monthly average fuel expense amount reported in the CV table.

Given the above-referenced facts on the record, we disagree with the petitioner that the information collected during verification with respect to fuel expenses is new. The information submitted on the record does include fuel expenses. However, due to the difficulty of identifying these expenses separately, the respondent included them in the overall fuel charges of the company.

During verification the respondent was able to provide information to substantiate an estimated monthly fuel expense amount. The estimated fuel charges were based on supporting documentation showing the distance in kilometers from the farm to the airport, the per gallon cost of fuel, and the number of gallons of fuel consumed per kilometer for the rented truck.

The method used by the respondent to estimate the fuel charges, and the supporting documentation collected during verification constitute sufficient evidence and a viable means which enabled the Department to identify the fuel expenses related to rose transportation from information already submitted on the record prior to verification. For the above reasons, the Department used respondent's estimated monthly fuel expense amount, instead of BIA, in the calculation of these foreign inland freight expenses.

Comment 26

Respondent states that the December 1993 amortization expense relating to its new farm should be included in the CV calculation since it started producing roses during the POI.

Petitioner states that to the extent that sales of roses from the new farm were included in the sales listing, costs incurred with respect to such farm should also be reported.

DOC Position

The Department agrees with both the petitioner and the respondent in that the December 1993 amortization associated with the preproduction costs of Greenhouse B–1 should be included in constructed value. During verification, it was found that rose production of saleable roses had begun in December 1993. The Department, therefore, increased respondent's submitted costs to include the December amortization expense.

Comment 27

Respondent states that the allocation of the Bogota office costs between subject and nonsubject merchandise is equitable and reasonable. Respondent argues that the Department should not charge these costs solely to subject merchandise because the only production-related expenses incurred at the Bogota office relate to the monthly Board of Directors meeting. All other managerial functions associated with rose production are performed at respondent's farm office.

Petitioner contends that corporate expenses incurred at the Bogota office should be added to G&A in full and not allocated based on use of the office. Petitioner argues that there is no basis to exclude the expenses of the Bogota office since there is no evidence that the owner does not oversee the rose business from this office. Petitioner's allegation that the office is used for a construction business is belied by the fact that the office expenses are carried on respondent's corporate income statement and tax return.

DOC Position

We agree with respondent. At verification, respondent demonstrated that the Bogota office was used mainly by a shareholder to manage other businesses which are not associated with rose production. The Department also determined that the methodology used to allocate the costs of the office between subject and nonsubject merchandise was reasonable. Respondent allocated the Bogota office expense based on the number of days during which the company uses the office for its Board of Directors meeting. For the final determination, we increased respondent's submitted G&A expense by an allocated portion of the Bogota office costs.

Comment 28

Respondent argues that the Department should not account for certain expenses paid by the company on the owner's behalf as G&A costs since these expenses were unrelated to the production or sale of the subject merchandise. Respondent states that in past cases, the Department has not required respondents to include similar owner expenses in CV even when such expenses were recorded in the accounting records of the company. Respondent cites in support of its position *Final Determination of Sales at less Than Fair Value: Fresh Kiwifruit for New Zealand,* 57 Fed. Reg. 13695, 13704 (April 17, 1992). Respondent also argues that these expenses should be considered a dividend paid by respondent to its majority shareholder and, thus, should not be accounted for as salary or compensation since the shareholder performs no day to day management of the company.

Petitioner contends that the expenses paid by the company on the owner's behalf should be included in G&A since there is no evidence that such costs were unrelated to the rose business, and because they were carried on the respondent's books.

DOC Position

We did not include in CV the personal expenses paid by the company on the owner's behalf. At verification, the expenses in question were demonstrated to be personal in nature, tax motivated, and not related to the production of the subject merchandise. The Department reached a similar conclusion in the *Final Determination of Sales at less Than Fair Value: Fresh Kiwifruit for New Zealand*, 57 Fed. Reg. 13695, 13704 (April 17, 1992) in which personal expenses of an owner were not included in COP/CV since they were not related to the production of the subject merchandise.

Caicedo Group

Comment 29

Respondent argues that the Department should not have used a high BIA rate for its sales through an unrelated importer. It states that while most of its sales to the United States are through its related importer, when the volume of exports is too great for the related party to handle, respondent will sell roses through other unrelated importers. One of these unrelated parties through which the respondent sold during the POI, according to respondent, failed to supply it with the detailed information needed for the response to the Department's questionnaire.

Respondent also states that at verification, it supplied what it could relating to these sales, including copies of written requests to the unrelated importer to supply the necessary information and a copy of a negative reply from this unrelated importer to its request. The respondent states that, because it did not have the ability to compel the unrelated importer to supply it with information, that it would be unfair to apply a punitive BIA rate to these sales. The respondent states that due to the high value and the small volume of these sales the Department should leave these sales out of the margin calculations altogether. Respondent adds that, if these sales are not excluded, the Department should apply to them the average margin found with respect to the remaining sales by the respondent.

The petitioner argues that where a party failed to supply U.S. sales data, the Department should apply ''Tier 1'' BIA. It cites 19 U.S.C. 1677e(c), which, it states, prescribes the use of ''best information'' whenever requested information is not supplied, without regard to motive. The petitioner also states that the circumstances appear to indicate that the unrelated importer acted as a consignment agent, in which case there would typically be growers reports or other documentation pertaining to transactions. The petitioner adds that respondent is properly responsible if its agent withholds data.

DOC Position

We agree with respondent. At verification, we closely examined the quantity and value of sales to this consignee and noted no discrepancies with respect to either quantity of sales to this importer or respondent's claims about the availabilty of price information needed to respond to the questionnaire.

The Department has the discretion to exclude certain sales. In *Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea,* 54 FR 15467 (March 23, 1993), the Department excluded sales where the volume of sales was insignificant. We determine that the sales through one of the respondent's unrelated U.S. customers during the POI were insignificant in volume. Therefore, we excluded these sales from our margin calculation.

Comment 30

Respondent argues that in calculating U.S. indirect selling expenses, the Department should include the value of local Miami sales in the denominator of the equation. It claims that it inadvertently excluded local sales in the value of sales used to calculate the percentage applied to gross unit price. It adds that in accordance with the Department's instructions, however, all U.S. sales, including local sales, have been included in the U.S. sales listing.

The petitioner provided no comments on this issue.

DOC Position

We agree with the respondent. While selling expenses associated with local sales may not be as great as those associated with sales in the normal course of trade in the market, they are nonetheless actual selling expenses that were incurred and examined at verification. Therefore, we have included the value of local Miami sales in the denominator of the U.S. indirect selling expense calculation.

Comment 31

Petitioner argues that the costs associated with the freeze which occurred on December 31, 1993, the last day of the POI, were ordinary expenses and should not be deferred solely for the antidumping investigation. Petitioner further claims that the freeze was not unusual in the industry and that the company treated the cost associated with the freeze as a current year expense in its tax return.

Respondent argues that the freeze, which destroyed a number of rose plants, was an extraordinary event. Respondent notes that the damaged plants were not scheduled to produce roses until the following year. Finally, respondent argues that under Colombian tax law it is permissible to write off a loss at the time of the event, despite the fact that the actual loss related to future income.

DOC Position

We believe that the costs resulting from the freeze do not relate to the production and sale of roses during the POI. Instead, given the date on which the freeze occurred and the fact that the lost and damaged plants had not yet begun to produce roses, we have determined that these costs should be recognized in a future period.

Flores la Fragancia

Comment 32

The petitioner maintains that there is no evidence that the respondent's breeder customers purchase merchandise that is different from the type of export quality rose which it sells to its retailer customers. In addition, the petitioner maintains that sales to breeders are made ''for home consumption'' and should be included in the Department's analysis. Alternatively, the petitioner argues that the respondent's sales to breeders do not constitute a distinct and separate level of trade because the respondent has not demonstrated that breeders' functions are different from the functions of any other type of purchaser as outlined in the *Notice of Preliminary Determination: Disposable Pocket Lighters from Thailand* 59 FR 53414 (October 24, 1994). Finally, the petitioner alleges that, even though the respondent is now requesting that the Department exclude sales to breeders in its final analysis, the respondent initially relied on the breeder sales made in the home market in order to avoid the need to report third country sales.

The respondent maintains that the Department should exclude sales to breeders because breeders are end users that are concerned only with whether the rose has a sprouting eye and not whether the rose is export quality or a cull. In other words, the breeder is not buying the rose, rather the plant material that is harvested with the rose. Alternatively, respondent maintains that, if the Department insists on using sales to breeders in its analysis, it should treat breeders as a distinct level of trade and not as retailers since breeders do not resell the roses purchased from it.

DOC Position

We agree in part with the respondent. We examined invoices at verification which demonstrated that breeders purchase both export quality roses and culls from the respondent. We see no reason to distinguish whether the export quality rose does or does not have a sprouting eye because the rose is still considered subject merchandise. In this case, sales to breeders must be considered as a home market sale of subject merchandise when they are sales of export quality roses. Therefore, we have used sales to breeders in our COP test. Since all home market sales are below cost, we are comparing all U.S. sales to CV. Therefore, the issue of whether breeders constitute a different level of trade is moot.

Finally, since the respondent correctly reported such sales in its home market sales database, we find that the petitioner's argument that the respondent tried to avoid reporting third country sales is not supported by the evidence on the record.

Comment 33

The respondent maintains that all sales included in the customer category labelled ''sales to individuals'' were made to individuals closely associated with the respondent (*e.g.*, mostly employees and relatives of the owners, the remainder being friends of the owners). Therefore, the respondent requests that the Department exclude all sales included in the customer category from our analysis. Finally, the respondent states that excluding these sales would be consistent with our decision to exclude other respondents' sales to employees from the analysis in the preliminary determination.

The petitioner did not provide comments on this issue.

DOC Position

We agree with the respondent. We determined at verification that the vast majority of customers included in the customer category ''sales to individuals'' were individuals related to the respondent. Documentation collected at verification demonstrates that the quantity and value of sales attributable to unrelated customers within the customer category is insignificant in terms of the total quantity and value amount reported under the customer category. Finally, we are comparing all U.S. sales to CV because, even including these home market sales, all sales are below COP. Therefore, we will not be using sales grouped under the category ''sales to individuals'' in our LTFV analysis.

Comment 34

The petitioner contends that there is a large and unreconcilable discrepancy between the quantity shipped to and the quantity received by the respondent's U.S. subsidiary during certain POI months. The petitioner maintains that as a result of the difference between what export documentation shows the respondent shipped to the United States and what sales documentation shows the U.S. subsidiary sold during the POI, the respondent did not report a significant portion of its U.S. sales of subject merchandise. Therefore, the Department should find the respondent's U.S. sales listing to be unreliable and resort to BIA.

The respondent states that the quantity shipped to its U.S. subsidiary reconciles with the quantity received by the U.S. subsidiary in the United States and that documentation collected by the Department at verification demonstrates that the U.S. sales listing is reliable.

DOC Position

We agree with the respondent. It was demonstrated at verification that, for the three selected POI months, the quantity shipped by the respondent to the United States reconciles with the quantity received by the U.S. subsidiary. In cases where differences existed between the amount of merchandise shipped from Colombia and the amount received in the United States, the respondent provided a reconciliation of the differences. Therefore, we have used the respondent's U.S. sales data in our analysis because the U.S. sales listing is reliable.

Comment 35

The petitioner contends that we should resort to BIA due to the number and frequency of data problems such as the mis-reporting and under-reporting of sales information from invoices and grower-reports.

The respondent maintains that it provided the Department with all information necessary to correct data-entry errors at verification and that the Department verified all corrections. The respondent points out that these errors all arose as a result of manually entering data for tens of thousands of home market sales and providing the Department with one monthly variety-specific stem-specific U.S. price during each POI month. Because the errors were unavoidable and most, if not all, were brought to the attention of the Department's verification team, the respondent requests that the Department use its sales data in the final analysis.

DOC Position

We agree with the respondent. We thoroughly tested the respondent's sales databases and established that the errors mentioned above were inadvertent, isolated, and small in magnitude, all of which the respondent either brought to our attention or were errors which we discovered as a result of respondent providing all requested information. Therefore, we have used respondent's response in our analysis.

Comment 36

The petitioner alleges that the respondent's methodology for determining returned quantities (described in the respondent's September 12, 1994, submission) is based on returns of both subject and non-subject merchandise and that the Department should not allow the adjustment. In addition, the petitioner maintains that, even though the respondent's reported monthly returned quantities were less than what would have resulted using an alternative methodology described in the verification report, the Department should not correct for the respondent's error because it would greatly benefit the respondent by producing increases in the average unit value of the quantity sold.

The respondent states that it did not include amounts of non-subject merchandise in its allocation methodology. The respondent further notes that the methodology it used conservatively calculated its quantity of returns. Therefore, the respondent maintains that the Department should accept its returned credit quantity allocation method.

DOC Position

We agree with the respondent. As verification demonstrated, information contained in the credit memos is not contained in the respondent's U.S. subsidiary's computer system. For this reason, the respondent used a monthly allocation method. Furthermore, we find that the respondent did not include returns of non-subject merchandise in its monthly allocation method. After examining the U.S. sales database, we determined that the respondent had in fact correctly applied the allocation method described in its September 12, 1994, submission. The verification report notes that had the respondent used the returned credit *value* factors (not the returned credit quantity factors), the total quantity returned amount for the POI would have been greater than the amount the respondent in fact derived using its allocation method. This does not, however, signify that the respondent's allocation methodology was improperly or incorrectly computed. Thus, we have accepted the respondent's returned credit quantity allocation method.

Comment 37

The petitioner contends that respondent's foreign inland freight monthly per-unit amounts shown in the verification report are based on quantity information contained in the registros and should not be used. In addition, the petitioner questions the variation in some of the monthly per-unit amounts. Finally, the petitioner maintains that the respondent should not have allocated the freight costs over gross unit price, since prices for different varieties and colors fluctuate substantially and such an allocation method would understate inland freight charges on the least expensive roses. Because of these alleged errors, the petitioner requests that the Department use, as BIA, the highest monthly per-unit amount to calculate freight expenses for all POI months.

The respondent states that the quantity figures used in the freight calculation were verified by the Department and that it did not allocate its freight costs over gross unit price. In addition, the respondent states that monthly freight costs fluctuate significantly because the volume of shipments can be vastly different for a given month. Therefore, the respondent maintains that the Department should accept its methodology and not reject it because freight costs differ from one month to another in the POI.

DOC Position

We agree with the respondent. It was demonstrated at verification that its revised freight expense calculation is not based on quantity amounts from the registros, but on amounts from invoices and grower reports. Specifically, the quantity amounts of roses and non-subject merchandise sold to third countries are from invoices and the quantity amounts of roses and non-subject merchandise sold in the U.S. market are from grower reports. Therefore, respondent is using actual quantities to derive its freight expense.

Regarding the petitioner's concerns that questionable variations exist for some of the monthly per-unit amounts, the respondent derived its monthly freight expenses by determining the freight expense it paid and the quantity amount it exported for each month based on when it recorded the expense in its accounting records and when it exported its product based on invoices. We have no reason to question this methodology because the calculated expenses accurately reflect the amounts respondent incurred.

Finally, the respondent did not allocate freight expenses over gross unit price. As found at verification, the respondent derived monthly freight per-unit expenses using only quantity and freight expenses as variables. Therefore, we have accepted the respondent's freight allocation methodology and have used the monthly per-unit amounts.

Comment 38

Respondent states that, while it normally accounts for the cost of greenhouse plastic as an expense in the year of purchase, for its submission, it correctly capitalized the cost of the plastics and amortized them over a two-year period. Respondent maintains that its greenhouse plastic generally remains a productive asset for at least two years and, thus, to expense these assets in the year of acquisition would distort its current production costs. Respondent further argues that the Department has accepted a two-year amortization period in the *Flowers* proceedings.

The petitioner notes that respondent's amortization methodology for greenhouse plastic was created by the company solely for its submission. Petitioner contends that the submitted costs must be rejected because the amortization schedule is incomplete and since respondent has not demonstrated that its normal accounting practices distort costs.

DOC Position

As explained in the general issues section, Comment 19, we have allowed companies to capitalize and amortize greenhouse plastic costs even though respondents normally treat such costs as expenses in the year of purchase. Respondents must demonstrate, however, that they correctly capitalized and amortized similar costs from all previous years (*see*, Exhibit 5 of the cost verification report). Respondent failed to satisfy this requirement. We have therefore calculated respondent's greenhouse plastics cost using the actual costs incurred as reported in the company's 1993 accounting records.

Flores Mocari

Comment 39

The petitioner alleges that certain verification exhibits indicate that respondent did not report all indirect selling expenses, *e.g.*, advertising.

The respondent maintains that it reported all indirect selling expenses. The respondent points out that the expense amounts identified by the petitioner include amounts associated with months prior to the POI. Second, the respondent points out that it makes adjustments to its accounts each month and that the total amounts of the accounting adjustments will cancel each other out by the end of the fiscal year. Third, the respondent states that the verification team examined whether numerous selling expenses were incurred as reflected in the accounting books and found no unreported selling expenses. Fourth, the respondent maintains that, where the expense was associated with both G&A and sales, it appropriately allocated the expense between administration and sales departments. The respondent maintains that the Department should accept its indirect selling expense allocation methodology.

DOC Position

We agree with the respondent. In the course of verifying this expense we examined and found that amounts from eight randomly selected accounts in the libro auxiliar for July 1993 were correct as shown on the respondents's indirect selling expense worksheet. We found that the respondent reported all of its selling expenses from its financial records. However, the petitioner points out that amounts from two additional accounts in the auxiliar do not correspond with amounts on the worksheet. Respondent's explanation that it moved some indirect selling expenses among the POI months in order to match monthly sales expenses with the corresponding sales is reasonable and we examined evidence of this practice at verification.

We also determine that certain additional expenses should not be included in respondent's indirect selling expense calculation. We did not select for examination at verification respondent's method for allocating a certain expense to sales and a portion of that expense to G&A. Therefore, we have accepted respondent's methodology. Finally, we examined the five expenses noted in the petitioner's brief at verification and found that the respondent did not incur these expenses.

Comment 40

The petitioner argues that respondent's related U.S. subsidiary should have allocated its grower/marketing expenses on a value of sales or cost of sales basis rather than per grower because the U.S. subsidiary cannot isolate the associates with only sales of merchandise produced by the respondent. Rather, the petitioner maintains that the expense should cover sales of subject merchandise of the U.S. subsidiary made on behalf of all growers.

Respondent states that its U.S. subsidiary's grower/market expenses associated with making its sales and cultivating its relationship with respondent are minimal since this relationship is well-established. The respondent points out that its U.S. subsidiary should have probably excluded all expenses of the grower department but was instead conservative and allocated these expenses over the number of suppliers. Therefore, the Department should accept its U.S. indirect selling expense allocation methodology.

DOC Position

We agree in part with the petitioner. Because the U.S. subsidiary could not determine from its accounting records the amount of grower/marketing expenses associated with a specific grower, we cannot rely on the allocation method used by the U.S. subsidiary. Therefore, to account for the sales amount of merchandise produced by respondent that its U.S. subsidiary sold during the POI, we determined the grower/marketing expense associated with respondent by first deriving a factor (gross sales of merchandise produced by respondent divided by the total product value sold by its U.S. subsidiary). We then multiplied this factor by the amount of grower/marketing expenses noted in the U.S. subsidiary's financial statements to arrive at a grower's expense associated with respondent.

Comment 41

The petitioner alleges that the respondent arbitrarily derived an air freight expense allocation factor for three periods during the POI and that, instead, it should have derived freight allocation factors for each POI month. The petitioner argues that the respondent's methodology effectively smoothes out monthly fluctuations and produces higher freight rates during the period when U.S. sale prices are highest.

The respondent maintains that its methodology properly reduces inaccuracies caused by inventory carryover without masking differences in monthly air freight rates. Therefore, we should accept its freight expense allocation methodology as reasonable.

DOC Position

We agree with the respondent. At verification it was demonstrated that the respondent created three distinct time periods within the POI corresponding to substantial rate changes. Within each period, the air freight rates incurred were similar. Accordingly, the respondent's air freight methodology is not arbitrary. Moreover, using monthly freight rates would not account for significant amounts of merchandise entering the latter part of one month but sold in the early part of the following month. Finally, we find that, there were significant rate changes in specific months of the POI, the different rate changes are highlighted by the periods used by respondent. Using monthly rates would not account for the fact that one would be deriving a freight amount for merchandise sold by using a monthly freight rate which may have been higher or lower then the rate applicable when the merchandise entered inventory.

Comment 42

The petitioner maintains that the Department should include reported sales which listed a box charge (a packing charge that the related importer charges the unrelated buyer) but a zero price.

The respondent argues that these are sample sales and that the Department stated that it would exclude sample sales in the preliminary determination. Respondent argues that the Department should exclude these sales in the final determination. In addition, the respondent requests that the Department allocate the movement expenses and packing costs of its sample sales over the total U.S. sales value.

DOC Position

It is within the Department's discretion to exclude U.S. sales when it finds that these are clearly atypical and not part of the respondent's ordinary business practice, *e.g.*, sample sales (*see Final Determination of Sales at Less Than Fair Value: Professional Electric Cutting and Sanding/Grinding Tools from Japan* (58 FR 30144, 30146, May 26, 1993)). However, we must also find that to use these sales would undermine the fairness of the comparison.

We have used transactions with positive box charge amounts in our analysis because these transactions are typical and part of the respondent's ordinary business practice.

Comment 43

The respondent maintains that one of the Department's verification issues is based on a misunderstanding of how the company accounts for preproduction costs in its normal books and records. Respondent claims that verification exhibits on the record conclusively support the fact that it ordinarily capitalizes preproduction costs in its financial statements.

Petitioner contends that respondent should not be permitted to explain its general ledger system and accounting practices in a case brief. Petitioner argues that respondent's case briefs are not intended to be a vehicle for the company to submit new information relating to matters that were not covered during verification.

DOC Position

This issue is moot since, despite respondent's normal accounting for preproduction costs, the Department allowed the company to capitalize and amortize its preproduction costs. See General Comment 19.

Comment 44

Respondent states that during verification, the Department found that there was a difference between the amount of preproduction costs capitalized for a particular test month and the amount recorded on respondent's preproduction cost amortization schedule for the same month. Respondent argues that this difference is insignificant and, thus, the Department need not adjust its reported rose production costs to account for the discrepancy.

Petitioner contends that in the interest of accuracy, the Department should correct for this differential in preproduction costs capitalized no matter how insignificant the effect.

DOC Position

We disagree with respondent that the difference between the amount of capitalized preproduction costs and the amount recorded on its preproduction cost amortization schedule for the same month is insignificant. The example highlighted in the cost verification report related to only one month of the POI. Yet, this difference is present in all twelve months of the POI. We therefore adjusted for the entire amount of underreported amortization relating to respondent's preproduction costs.

Comment 45

Petitioner claims that certain expenses recorded as cost of goods sold in respondent's financial statement should not be reclassified as G&A. Petitioner argues that respondent failed to provide evidence sufficient to support its claim that its expenses had been misclassified in the company's financial statements.

Respondent contends that the evidence it provided at verification clearly supports its reclassification of these expenses from cost of goods sold to G&A.

DOC Position

We agree with respondent that sufficient evidence was provided at verification to support the reclassification of these expenses to G&A. We therefore made no adjustment was made for purposes of the final determination.

Comment 46

Petitioner claims that respondent's SG&A costs should not be reduced by payments received from another company, since a portion of respondent's SG&A costs have already been allocated to that company. According to petitioner, if the Department were to allow the respondent to offset its SG&A by the payments received from the other company, it would effectively double count the offset. Additionally, petitioner argues that the revenue received by respondent from the other company is neither short term nor related to the rose production operations.

Respondent argues that the amounts received from the other company represent an offset to expenses recorded on respondent's books. According to the respondent, there is no separate allocation of SG&A expenses to the other company and, thus, the payments received from the other company are not double counted on respondent's books.

DOC Position

We agree with respondent that the amounts received from the other company are not double counted. The full amount of SG&A expenses are recorded on respondent's books. None of these expenses are allocated to the other company. By offsetting these total expenses with payments received from the other company, respondent is in effect charging the other company for expenses incurred on its behalf.

Comment 47

Petitioner argues that exchange gains and losses related to sales transactions and debt should be included in respondent's constructed value calculation. According to petitioner, failure to take into account these exchange gains and losses will result in the misstatement of respondent's costs.

DOC Position

We agree with petitioner in part. It is our practice to exclude from costs the exchange gains and losses arising from sales transactions since these amounts do not relate to production of the subject merchandise. Other exchange gains and losses associated with respondent's debt, however, relate to the company's overall operations. Thus, we have included these amounts in our calculation of respondent's rose production costs.

Grupo Andes

Comment 48

Respondent states that the Department should use the interest rate it reported for calculating credit expense. The respondent argues that the sales verification report acknowledges that: (1) The company used a variable rate demand note interest rate for calculating U.S. credit expense; and (2) the terms of the bond define the interest rate as a weekly rate using a certain rate, which is the rate for high quality, short-term or demand, tax-exempt obligations.

Respondent states that if the Department decides that this rate should not be used, then it should use the prime rate for calculating U.S. interest credit expense.

DOC Position

We disagree with the respondent. While the respondent accurately describes the terms of the bond, the Consolidated Balance Sheet for Continental Farms (respondent's related subsidiary) shows that only the current portion of the bond is accounted for under ''Current Liabilities''; the much larger portion of the bond is listed under ''Long-term Debt.'' Thus, we view this obligation and the interest expense associated with it as long term.

Also, regarding U.S. credit expense, as noted in the verification report, respondent's U.S. credit expense verification exhibit contained a written explanation of its credit period calculation methodology from an accounting manual. This manual states that the methodology ''does not work well with a seasonal business.''

Therefore, we have recalculated the credit period using a different methodology but the same data contained in respondent's verification exhibit. In addition, we have disallowed respondent's interest rate and, instead, applied an average of publicly ranged interest rates. (*See* Comment 21.)

Comment 49

The petitioner argues that respondent could not identify export selling expenses from its books and records. It states that respondent earlier reported having an ''export department'' that prepared weekly and monthly reports concerning export quality roses sold in Colombia. The petitioner argues that expenses incurred by this department should be included in the total amounts allocated to indirect selling expenses incurred in Colombia.

The petitioner also states that, with regard to indirect selling expenses incurred in the United States, the verification report indicated that indirect selling expenses were allocated over ''total global sales.'' The petitioner states that given that Continental Farms is located in the United States and that the respondent is attempting to derive U.S. selling expenses, such an allocation appears overly broad.

Respondent states that it has included in its indirect selling expenses incurred in Colombia all such expenses that could be identified based on available accounting records. Respondent also states that the petitioner's suggestion regarding administrative expenses is unreasonable. With regard to indirect selling expenses incurred in the United States, the respondent states that those expenses were allocated over total sales of all products by Continental Farms, not Andes as the petitioner seems to assume.

DOC Position

We agree with the respondent. At verification, the Department found no information to indicate any U.S. indirect selling expenses incurred in Colombia beyond those identified. Also, we found no significant discrepancies with the information examined.

With regard to indirect selling expenses incurred in the United States, the respondent allocated such expenses over sales of all products to all markets by Continental Farms only.

We agree with the respondent that its allocation methodology was reasonable based on what was examined at verification.

Comment 50

Petitioner notes that for purposes of computing U.S. value added, respondent allocated net profits between U.S. and home market production costs based on the transfer price charged by the respondent to its U.S. affiliates. Petitioner states that the Department has always supported a cost based profit allocation methodology in further manufacturing cases. Petitioner therefore argues that the Department should exclude all of respondent's U.S. value added sales from the LTFV margin calculation.

Respondent acknowledges that the Department normally allocates profit on the basis of cost in further manufacturing cases. Respondent maintains, however, that because of the unique nature of the rose market and the volatility in its pricing, profits should be allocated on the basis of price, not cost.

DOC Position

We agree with petitioner that our normal practice is to allocate profit in further manufacturing cases on the basis of relative cost. *See Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (54 FR 15467, March 23, 1993). Respondent has provided no evidence or support for its argument that, because of price volatility in the roses market, our normal practice distorts the antidumping analysis. Therefore, we have allocated the profits for further manufactured roses on the basis of cost and have included these sales in our analysis.

Comment 51

Respondent argues that the Department's cost verification report significantly overstates the amount of G&A expenses of the respondent that should be allocated to rose production. Respondent notes that the Department's report indicates G&A costs inclusive of the intercompany purchase of flowers. Respondent argues that the respondent's intercompany purchase of flowers for resale should not be considered part of the company's G&A expenses. In addition, respondent believes that the Department's calculation of the respondent. G&A expenses does not take into account the company's other income which should be deducted from the G&A expenses. Finally, respondent asserts that the respondent's net G&A expenses should be allocated among the different flower types sold by respondent.

Petitioner argues that respondent's claims regarding other revenue are not support by the record. Petitioner argues that respondent's case brief is not the place for explaining data that should have been presented during verification. Accordingly, petitioner does not believe that there is any basis to credit respondent's G&A expenses with the offset for respondent's other revenue.

DOC Position

We agree with respondent that the costs of intercompany purchases of flowers should not be included in the calculation of G&A expenses. However, we also agree with petitioner that the record does not support respondent's claims for other income offsets to the G&A expenses. Accordingly, we have rejected respondent's argument and calculated the G&A based upon the costs examined at verification.

Grupo Benilda

Comment 52

Respondent maintains that it reported home market sales in U.S. dollars because the home market sales transactions were denominated and invoiced in U.S. dollars. According to respondent, the home market customer paid the peso equivalent of the invoiced dollar amount, using the exchange rate on the date of payment. For this reason, respondent argues that the Department should not attempt to recalculate the value of these sales by converting dollars to pesos and then converting pesos to dollars because, respondent claims, this would distort the real value of these sales.

With respect to the short-term borrowing rate to be used in calculating the home market imputed credit, respondent argues that its dollar borrowing rate should be used because the home market sales were negotiated, contracted for, and denominated in dollars. Respondent further maintains that it would not make economic sense to borrow at a peso borrowing rate to finance dollar denominated accounts receivable. Therefore, respondent requests that the Department continue to use respondent's dollar borrowing rate in its calculation of home market credit expenses.

DOC Position

During respondent's verification, we established that respondent invoiced its home market customers in U.S. dollars and received the equivalent value in pesos at the date of payment. We were able to trace the payments to the company's records and establish that the payments made to the company in pesos reflected the prevailing exchange rates at the time of payment.

It is the Department's practice to accept charges in the currency in which the charges are made. In this instance, home market prices were charged in dollars. Therefore, the Department found it appropriate that respondent's home market sales were reported in dollar value since the dollar value was the currency in which the sales transactions were made. Furthermore, since home market sales were transacted in dollars and the payments made, although in pesos, were based on constant dollar value, there is no distortion. Using respondent's dollar borrowing rate in the calculation of the home market imputed credit, is, therefore, appropriate.

Comment 53

Respondent argues that the air freight account examined by the Department during verification reflects expenses entirely related to air freight for products shipped to a customer in a foreign country. Respondent maintains that the Department collected documentation at verification which supports this. Respondent further maintains that the suggestion made in the Department's verification report that half of the amount reported in the air freight account be added to the reported foreign inland freight is based on a misunderstanding of the facts, and it would be incorrect to include any portion of this account in the Department's calculation of foreign inland freight expenses.

The petitioner argues that there is no evidence on the record to show that the air freight expenses, reported in one of the company's transportation accounts, are related entirely to air freight expenses for that foreign country. According to the petitioner, the supporting documentation collected during verification only supports the conclusion that air freight expenses for one month (*i.e.*, the month of August) were for shipments made to the foreign country. According to the petitioner, the exhibit collected by the Department does not establish that all entries under this account code were destined for that foreign country and does not identify the portion of these expenses related to inland freight. The petitioner argues that because respondent failed to report the inland freight expenses included in the account, the Department should include the full amount of the charges in the calculation of inland freight expenses.

DOC Position

At verification we examined one of the company's accounts related to transportation titled ''Transportes Aereos'' (Air Transportation). A company official stated that the entries made to that account were for inland and air freight expenses related to products shipped to a customer in a foreign country. To verify this statement we examined all supporting documentation for one month.

The documentation consisted solely of air freight charges, which is indicative that the entries made under this account were related to air freight, not inland freight. As there is no evidence on the record showing that the air freight account in question is related to inland freight, we have not included any amount from this account in our calculation of respondent's foreign inland freight expenses.

Comment 54

The petitioner requests that all the expenses related to Federal Express discovered during verification be allocated to rose sales in the U.S. market. The petitioner argues that there is no evidence that the Federal Express charges incurred by the respondent's related company in the United States were not shipment expenses on sales to U.S. customers, nor is there any basis to assume that such expenses should be allocated to sales outside the United States or to merchandise other than roses. According to the petitioner these expenses should be treated as direct selling expenses related merely to rose sales.

According to the respondent, these expenses should be appropriately added to the ''other expenses'' field, or to indirect selling expenses incurred in the United States.

DOC Position

At verification, company officials discovered unreported expenses related to Federal Express. However, because, in general, we cannot accept new information at verification and, due to time constraints we were unable to verify the exact amounts of these expenses to each destination and for each merchandise class, we were only able to verify the total expense. Thus, the Department, as BIA, included the total of these expenses in the calculation of movement charges related to U.S. rose sales.

Comment 55

Respondent maintains that at the preliminary determination, the Department double counted certain expenses related to U.S. duty, U.S. brokerage and handling, and movement charges. According to respondent, the Department applied BIA for the above-referenced expenses for certain ESP sales, even though these expenses were already included in respondent's indirect selling expenses. Respondent, therefore, requests that the Department eliminate the BIA values and count the actual expenses as part of indirect selling expenses, as reported. Furthermore, respondent argues that delivery and brokerage expenses are functions performed by respondent's related U.S. importer, and that such expenses are included in the importer's accounting records as indirect selling expenses. Therefore, respondent argues that it serves no purpose to attempt to break these costs out and report them separately.

Petitioner, on the other hand, argues that the movement expenses included in the reported indirect selling expenses are not properly classified as indirect selling expenses and are not entitled to be offset under 19 CFR § 353.56. According to petitioner, respondent should bear the burden of identifying its U.S. indirect selling expenses. Otherwise, respondent has an incentive to report all U.S. selling expenses as indirect in order to obtain a greater offset. Therefore, respondent requests that the Department treat the entire amount of indirect selling expenses as direct selling expenses.

DOC Position

Duty. We are unsure why respondent refers to double-counting of duty charges. Respondent has always reported U.S. duty as unique movement charge in its database. We verified duty charges in the same context as airfreight charges, specific to shipments of roses and reported as a movement charge. Respondent has not reported U.S. duty in its importer's indirect selling expenses. In the preliminary determination, we used the highest reported duty as BIA for any ESP sale with no duty reported (as all FOB Miami sales must have applicable duty charges). We noted in our verification report that respondent failed to report duty for several transactions. Therefore, as BIA, we are using the average positive duty and airfreight charges for purposes of the final determination.

Brokerage. In its first submissions, respondent reported U.S. brokerage as a fixed-fee per airway bill on ESP sales. Respondent then stated shortly before the preliminary determination that it had double-counted these costs by also including brokerage charges in its reported indirect selling expenses. At the preliminary determination, we stated that it was proper to report brokerage as a movement charge, and that, since we could not easily remove brokerage from indirect selling expenses, we subtracted both the charges reported in the database as movement expenses, and the total reported indirect selling expenses.

At verification, respondent demonstrated to the Department that the brokerage costs incurred by the importer's staff acting as respondent's in-house broker, include not only the importer's brokerage fees, but also the personnel and other costs of the respondent's U.S. subsidiary. Therefore, company officials maintained that the total costs associated with brokerage should be reported as a subset of indirect selling expenses.

We determined that the manner in which total brokerage charges are incurred and recorded in the respondent's accounting system, and the difficulty of re-allocation to rose sales, are circumstances under which their inclusion in the related importer's indirect selling expenses was warranted.

U.S. Inland Freight Expenses

During verification, respondent identified the freight charges for local transportation included in the importer's overhead expenses. Consequently, we removed them from indirect selling expenses and treated them as a movement expense. We also deducted from the reported indirect selling the freight expense amount.

Comment 56

Petitioner argues that expenses related to hurricane damage, amortization, legal fees and depreciation should not be excluded from respondent's G&A expenses. Petitioner believes that these expenses are costs of selling in the U.S. market. Petitioner further maintains, that because these expenses were classified as G&A in the ordinary accounting records of the importer, there is no basis to treat these charges as extraordinary items. Petitioner further maintains that certain depreciation expenses which were not reported as indirect selling expenses, should be included since they relate to the sale and distribution of subject merchandise.

Respondent maintains that these expenses were properly excluded from the reported indirect selling expenses because these expenses are unrelated to selling expenses.

DOC Position

During verification, we established that the related importer did not report to the Department certain overhead expenses. According to respondent, these expenses were not reported since they are unrelated to rose sales and were properly classified as G&A expenses.

We agree with petitioner that the G&A expenses excluded from the reported indirect selling expenses should be included in the indirect selling expenses because importer's function, as a related subsidiary, is the sale and distribution of the subject merchandise. Since the expenses respondent excluded from indirect selling were not reported to the Department and since there is not sufficient information on the record to show how these expenses can be allocated to the importer's rose sales related to respondent, the Department used BIA to account for these unreported expenses. The Department added the ratio of the unreported overhead expense amount to the importer's total sales value to the indirect selling expense ratio used in the calculation of respondent's indirect selling expenses.

Comment 57

The petitioner maintains that expenses related to the computer system department should be allocated among farms based on the sales value or volume. The petitioner further argues that allocating these expenses over the number of farms would disguise the higher costs involved in making more entries for farms with higher sales volume. The petitioner, therefore, suggests that the computer system department expenses be prorated based on either the sales value or the number of boxes shipped to the respondent's U.S. subsidiary.

According to the respondent, sales value and volume are irrelevant to this allocation because it takes approximately the same amount of time to prepare a growers report, regardless of the number of transactions.

DOC Position

At verification we examined the records of the respondent's U.S. subsidiary and found no evidence that the method used to allocate entry processing expenses was not reflective of the company's record-keeping system.

We disagree with the petitioner that the expenses related to the computer system department should be allocated based on the sales value or volume of each farm. Moreover, fixed costs for salaries, computer supplies, and maintenance are incurred regardless of the volume or value of transactions entered into the computer system. Therefore, the Department found the allocation of these expenses based on the number of farms to be appropriate.

Comment 58

At verification, company officials of the respondent's U.S. subsidiary explained that its grower department incurred expenses for soliciting new suppliers of roses. We established that the U.S. subsidiary did not allocate any of these expenses to the rose sales of its related company. The respondent argues, however, that, as these expenses relate to soliciting new suppliers of roses, and the U.S. subsidiary's supply from the respondent is already guaranteed by their relationship, the U.S. subsidiary's grower department expenses were properly not allocated to the respondent.

The petitioner argues that, in the absence of any evidence showing that such expenses were not applicable to the respondent, the full amount of grower department expenses should be allocated to the respondent based on a sales prorated basis.

DOC Position

At verification we found no evidence that respondent's U.S. subsidiary's grower department expenses were applicable to the respondent. Therefore, the Department did not allocate any expenses of the U.S. subsidiary's grower department to the respondent's rose sales in the U.S. market.

Comment 59

Respondent contends that it appropriately capitalized certain severance payments for its submission and amortized those payments over a two-year period. Respondent states that the purpose of the payment was to encourage employees to switch to a new severance pay system that could benefit the company in future periods.

Petitioner argues that the severance paid during December 1993 should be expended in the POI, according to the company's normal accounting practice. Petitioner states that severance by nature is based on past service, not future services. Petitioner argues that it is unclear whether the expenditures will produce any future cost reductions. Additionally, there is no basis to conclude that respondent's normal accounting practice distorts actual costs.

DOC Position

We agree with respondent. In order to benefit from the amendment to the Colombian labor laws, respondent paid its employees a voluntary bonus that was equivalent to approximately two years of severance payments under the old system. The adoption of the amendment by a company is voluntary. The purpose of the amendment is to generate lower monthly severance provisions in the future. For the submission, respondent amortized this bonus over the period it will take to recover the bonus expense through cost savings. Since the bonus is, in effect, a prepayment of future severance cost, we made no adjustment. The Department also recognizes that U.S. GAAP allows delayed recognition of post-employment benefits. Thus, charges for post-employment are not recognized as incurred but are recognized systematically over future periods. Therefore, no adjustment was made for purposes of the final determination.

Comment 60

Petitioner states that the accounting adjustments made during the POI should be included in COP and CV. Petitioner argues that respondent has not demonstrated that the adjustments were not, in fact, actual expenditures during the POI. The petitioner also states that there is no basis on which to depart from the company's audited financial statements.

Respondent argues that when calculating constructed value, the Department may include only those costs which would ordinarily permit production in the ordinary course of business. 19 U.S.C. 1677b(e)(1)(a). Respondent contends that the Department should not automatically rely upon a company's accounting records, but instead, should determine whether the amount represents a cost of production properly attributable to the POI, and if it does not, it should be excluded. The respondent argues that a company may properly treat a cost for the purposes of calculating constructed value in a manner that differs from the treatment of those costs in the company's books. Respondent argues that is appropriate when the treatment in the books does not represent actual production costs and cites the final determination of sales at less than fair value:

Ferrosilicon From Venezuela, 58 FR 27522, 27527 (1993).

DOC Position

We agree with the respondent. At verification, respondent demonstrated that the year end adjustments were not current production costs. Instead, these entries related to costs of the following year. Respondent provided data to support that the adjustments were reversed within the first few business days of 1994, and, thus, were properly recorded in 1994 production costs.

Comment 61

Petitioner contends that the 1992 maintenance costs capitalized in the company's books and the amortized during 1993 should not be excluded from reported costs. The petitioner claims that there is no basis on which to depart from the company's audited financial statements.

Respondent states that these capitalized maintenance costs did not relate to the production of subject merchandise during the POI. Respondent states that if the Department were to include 1992 maintenance expenses in 1993 cost, then to be consistent, some maintenance expenses incurred in 1993 should be reclassified as 1994 costs.

DOC Position

We agree with respondent. By capturing all of respondent's 1993 operating expenses we have accounted for all rose production costs. Accordingly, no adjustment is deemed necessary.

Comment 62

Respondent states that the Department should not include in CV the costs of a certain business investment that is wholly unrelated to the production of roses in Colombia. Respondent notes that the income generated by this investment was similarly excluded from the submission.

DOC Position

We agree with respondent. Since this investment is not related to the production of roses, we did not include the income or expenses associated with it.

Grupo Bojaca

Comment 63

Respondent confirmed that it properly reported G&A expenses. Thus, respondent claims there is no longer any factual basis upon which to continue the G&A adjustment made in the preliminary determination.

DOC Position

We agree with the respondent. The Department adjusted the G&A amounts at the preliminary determination because respondent had failed to provide a timely reconciliation of the reported amounts. Subsequently, the Department reconciled these costs at verification. No discrepancies concerning this expense were noted at verification, therefore, adjustments are no longer necessary.

Comment 64

The petitioner claims that offsets to financial expenses were overstated by profits on investment sales, income from previous years, and other income. The petitioner states that only income directly related to the short-term interest expenses is permitted as an offset to interest expense. Moreover, the petitioner states that respondent failed to show that the claimed income is related to short-term investments. Such support is required before income can be used as an offset to interest expenses. The petitioner states that income from prior years or from insurance claims does not relate to current short-term interest costs.

Respondent claims that its reported financial income is appropriately treated as an offset to financial expenses. The respondent also argues that the Department should not recalculate its reported per unit net interest expense so as to allocate total company-wide interest expense to roses. The respondent states that this is a generic problem (for all companies) that stems from the Department's misunderstanding of how the CV tables were developed in the *Fresh Cut Flowers* cases. The respondent states that the Department should utilize the per unit net interest expense as calculated in the CV tables submitted.

DOC Position

We agree, in part, with both the petitioner and the respondent. The miscellaneous income amounts allocable to roses were reclassified to G&A expense. Only interest earned on short-term investments of working capital was used to offset financial expense. As to the error in the CV table, we have corrected this problem in our final calculations. (*See* Comment 11).

Comment 65

Respondent claims the Department's verification report overstates the errors with respect to its credit period calculation and U.S. credit expenses, and that only two customers were affected. For those two customers, respondent used an incorrect box charge in the denominator of its credit expense calculation. Respondent claims that increasing the monthly average sales by a given amount results in no change to the credit periods for these two customers. Respondent also states that the days outstanding will not change as a result of volume changes as suggested in the verification report.

The petitioner states that verification disclosed errors in the calculation of U.S. credit days that should be amended.

DOC Position

While we noted errors in respondent's calculation of U.S. credit days for two customers, the effect of these errors does not change the actual number of days outstanding from that reported. Thus, we have used respondent's reported days outstanding.

Comment 66

The petitioner states that discounts are price adjustments or direct selling expenses, not financial costs. Accordingly, such costs should be segregated and separately deducted as direct selling expenses. The petitioner states that to the extent that these costs cannot be separated from true financial costs, the entire amount should be treated as direct selling expenses.

The respondent states that there is no way to segregate cash discounts from the related importer's financial expenses, nor is there any reason to do so. Respondent notes that because the basis of its FMV is CV, it does not matter whether these costs are reported as indirect or direct selling expenses.

DOC Position

We agree with the petitioner that discounts should be segregated and treated as a price adjustment. Accordingly, we have segregated discounts from indirect selling expenses and made an adjustment to USP for these discounts. Thus, we have adjusted indirect selling expenses for the discounts and have also included financial expenses in the indirect selling expenses.

Grupo Clavecol

Comment 67

The petitioner maintains that respondent's air freight charges were improperly allocated by flower weight. The petitioner maintains that the use of a universal kg/box weight to allocate freight charges is inaccurate because box weight will vary significantly depending on the type of flowers packed in the same size box. The petitioner maintains that the per-rose weight calculated from the reported average is not realistic based on the petitioner's comparison of the per-rose weight to weights of other flowers shipped by respondent. The petitioner maintains that the Department should use the ratio of total sales of roses to total sales of all flowers to allocate total air freight charges to roses.

The respondent maintains its allocation is reasonable because, although the number of flowers per box varies, boxes of flowers are generally treated as weighing approximately the same regardless of the type of flowers contained in the box. The respondent states that the petitioner overstates the variance in flower weights by failing to recognize that units for flowers such as alstromeria are for bunches, not stems. Moreover, the petitioner's proposed methodology appears to result in a lower air freight charge for roses than the currently reported allocation.

DOC Position

We disagree with the petitioner. The petitioner did not distinguish between numbers of stems and numbers of bunches for alstromeria, which changes the relationship between weight and flower type considerably. The result of respondent's calculation was an average weight per rose stem which is neither unreasonable nor improbable. We note that the respondent's basic weight-driven methodology had been on the record since June. The petitioner never raised this issue, nor did the Department instruct respondent to change its reporting prior to verification. Verification is not intended to collect new data nor to design new methodology. The petitioner neglects to mention that the air freight bills to respondent's U.S. subsidiary cover the subsidiary's FOB Miami sales both to the United States and to Canada, so that the higher rate would, in fairness, apply to the average for both U.S. and Canadian FOB Miami sales. Accordingly, we have continued to use the data as reported and verified by the Department.

Comment 68

The petitioner maintains that respondent did not sufficiently substantiate that the expenses recorded under a certain account code pertain only to sales made to third countries. The petitioner argues that respondent presented no documentation at verification to support its claim. Moreover, the petitioner argues that, if third-country sales represent a given percent of total exports, it is not credible that third-country selling expenses equal a larger percent of total selling expenses reported.

Respondent maintains that the documentation examined at verification showed that the categories of expenses included in its response were specifically related to third country sales. The respondent states that these expenses, by their nature, do not apply to U.S. sales.

DOC Position

We disagree with the petitioner. The Department's verifiers were provided with both explanations and basic documentation to show that certain Bogota export expenses did not pertain to U.S. sales. In terms of the general difference in levels of cost, respondent's sales channels in third-country markets are not the same as its operations in the United States, therefore, it is not improbable that different costs are incurred for processing third country sales.

Comment 69

The petitioner argues that respondent should have separately reported U.S. inland freight costs rather than include them with indirect selling expenses.

The respondent maintains that the Department issued a letter on August 10, 1994, expressly stating that it was not necessary to segregate inland freight charges from U.S. indirect selling expenses.

DOC Position

Early in the investigation, counsel for numerous Colombian respondents, including respondent, explained that, because of the nature of their companies' record-keeping, certain expenses could not readily be broken out in the requested computer format. In our August 10, 1994, letter, we allowed the respondents to report various expenses, including brokerage and handling, inland freight, and warehousing, as components of aggregate indirect selling expenses, instead of breaking these out as separate costs to be reported as movement expenses. The letter was conditional, however, as it stated that, ''if at verification the Department discovers information which is contrary to your August 9, 1994, letter, we may reconsider these decisions.'' At verification, we examined the records which contained freight cost entries for truck services and for van expenses. The various related accounts, such as maintenance and depreciation, apply to any and all use of the U.S. subsidiary's vehicles. Company officials showed us that these general expenses apply universally to trucking and van services. Verification confirmed that there was not a reasonable method available for disaggregating the costs for U.S. inland freight for roses.

Therefore, we have kept U.S. inland freight charges as a component of the U.S. subsidiary's indirect selling expenses in keeping with the terms outlined in the Department's August 10, 1994, letter.

Comment 70

The petitioner argues that certain advertising expenses should be treated as direct selling expenses and should only be allocated to U.S. sales. The petitioner states that since the advertising was published in the magazine *Florists Review*, the readers of the magazine would be customers of respondent's customers, that is, the florists who buy from the wholesalers who purchase roses from respondent.

The respondent maintains that, first, these are insignificant expenses and their treatment as direct selling expenses would make little impact on the dumping calculation. Second, the respondent maintains that the U.S. subsidiary's advertising is seen by wholesale customers who also read Florists Review. Third, respondent argues that this magazine is also distributed in Canada; thus if direct selling expenses are warranted, Canadian sales as well as U.S. sales should be affected.

DOC Position

We disagree with the petitioner. We re-examined the sample documentation in verification Exhibit 14C. The evidence shows that the advertising touts the U.S. subsidiary's reliability as a supplier. Nowhere does the advertising speak to retail shops; no admonitions exist for retail florists to ask their suppliers to look for the U.S. subsidiary's products. As the advertising is aimed at respondent's customer, and not to that customer's customers, we have made no change in treating advertising as reported indirect selling expenses.

Comment 71

The petitioner alleges that purchase prices should be adjusted to reflect unreported wire transfer changes. The petitioner cites the verification report, which states that one U.S. customer paid respondent by wire transfer and deducted the wire transfer cost from the amount paid to respondent. Respondent did not report this reduction to the U.S. proceeds from the sale in question. The petitioner maintains that since there is no indication on the record as to how many U.S. transactions involved wire transfer charges or how many U.S. customers deducted wire transfer charges from the amount returned to respondent, the Department should deduct the verified single discrepancy, as a percentage of gross price, from all purchase price sales to all customers.

The respondent argues that since this issue only involved one of six purchase price sales examined at verification, only the single sale in question should be modified for the discrepancy.

DOC Position

Wire transfer is one of several common methods of payment by respondent's customers. The unreported deduction from invoice price for wire transfer charges appeared in one of six sales examined at verification. As BIA, we have reduced all sales to that purchase-price customer whose payment showed this omission, by the corresponding percentage of the unreported reduction to U.S. price.

Comment 72

The respondent maintains that the Department should use the reported interest rate to calculate imputed credit on U.S. sales. The respondent maintains that it submitted proper documentation to the Department for the reported rate and states that its U.S. subsidiary did not have loans during the POI.

DOC Position

We agree with the respondent. Respondent did provide requested documentation for its reported interest rate on September 22, 1994. Respondent was fully prepared to review its history of borrowing during the POI; the verification team elected not to review the materials, thus no negative inference is warranted.

Comment 73

The respondent maintains that the Department should use the expenses reported as adjustments to U.S. price.

DOC Position

We agree, in part, with the respondent. We are using the data submitted to the Department by respondent on December 7, 1994, which includes corrections based on the company's verification. We have also made minor adjustments, such as that for missing U.S. wire transfer charges.

Comment 74

Respondent contends that its submitted G&A expense was properly allocated based on cost of manufacturing (COM). Additionally, respondent states that all of its business activities related to growing flowers.

Petitioner alleges that G&A was allocated on the basis of variable costs, and asserts that G&A should be allocated based on cultivated area because fixed costs associated with business activities not concerned with subject merchandise, *i.e.*, a cattle ranch, are very different than flowers.

DOC Position

The Department considers respondent's allocation of G&A based on COM to be a reasonable methodology. Additionally, there is no information on the record indicating that the respondent was involved in activities other than growing flowers during the POI.

Comment 75

Petitioner claims that rose production costs were understated because all production costs were allocated on an equal basis, by area, to field crops (containing gypsophilia. flowers) and flowers grown in greenhouses.

Respondent states that its gypsophilia. crop was grown in greenhouses and that petitioner provided no evidence to support its accusation that gypsophilia. was a field crop. Therefore, the Department should reject petitioner's claim.

DOC Position

There is no compelling evidence to support petitioner's claim that respondent's production cost allocation methodology distorts rose production costs. Accordingly, we made no adjustment for purposes of the final determination.

Grupo Floramerica

Comment 76

The respondent argues that all of its selling expenses were incurred by Floramerica, S.A. and Flores Las Palmas. The respondent states that its central office incurs the majority of the selling expenses and records them in Floramerica, S.A.'s books. The respondent explains that the central office provides selling and support functions for all products at all the

Group's farms. However, the respondent contends that it is impossible to separate selling expenses on a farm-specific basis. The respondent maintains that its allocation methodology for its indirect selling expenses is correct because the total selling expenses to be allocated reflect selling support functions for all the Group's products. The respondent argues that it would have overstated its total selling expenses allocable to roses if, as the Department suggests, it would have used sales revenue from only Floramerica, S.A. and Flores Las Palmas.

The petitioner argues that indirect selling expenses incurred in Colombia should be allocated only over sales by Floramerica S.A. and Las Palmas. The petitioner maintains that the verification exhibit supporting the Department's analysis of respondent's indirect selling expenses expressly states ''Total Selling Expenses (Floramerica and Palmas)'' allocated by revenue of all farms in the Group. The petitioner further argues that the cost verification report does not indicate that selling expenses were limited to Floramerica, S.A. and Flores Las Palmas.

DOC Position

We agree with respondent. Respondent allocated the indirect selling expenses of Floramerica, S.A. and Flores Las Palmas to roses by determining the percentage of rose sales as a proportion of sales of all products. Because respondent allocated Floramerica S.A.'s and Flores Las Palmas' indirect selling expenses by the revenue of all related farms in the Group, its calculation understated the indirect selling expenses of Floramerica, S.A. and Flores Las Palmas. However, because Floramerica S.A. provides sales support for the entire group, if we allocated the indirect selling expenses by only Floramerica S.A.'s and Flores Las Palmas' revenue, we would overstate their indirect selling expenses. Therefore, as there is no way to reallocate these expenses, we have accepted the respondent's methodology as reasonable.

Comment 77

Petitioner argues that only income relating directly to respondent's short-term assets is permitted as an offset to interest expense.

Respondent contends that the Department should continue to allow its total financial income to offset its financial expenses. Respondent maintains that the cost verification report does not conclude that only a portion of its financial income should be allowed to offset its financial expenses. According to the respondent, the cost verification report states that financial income generated from short-term investments of working capital are generally allowed as an offset to financial expenses. Respondent states that its financial income was verified without discrepancy.

DOC Position

Respondent reduced financial expenses for interest income earned from certain assets. These assets had maturities ranging from one to five years. The Department generally only allows financing expense to be offset by short-term investments of working capital (*see, Final Result of Antidumping Administrative Review: Gray Portland Cement from Mexico,* 58 FR 47256 (September 8, 1993)). The maturities of these assets are all greater than one year and therefore cannot be considered short-term in nature. Therefore, we disallowed the portion of interest income earned from the long term assets.

Comment 78

Petitioner argues that fixed costs should be included in respondent's packing expenses.

Respondent states that the Department verified its packing calculation and its allocation methodology and found no discrepancies. Therefore, respondent contends that the Department should use the verified packing expense data and not the BIA amount used in the preliminary determination. Furthermore, respondent argues that the Department should include fixed overhead in the packing costs. Respondent further argues that, if the Department decides these costs are not packing costs, these costs must be classified as indirect selling expenses.

DOC Position

We agree with respondent that certain fixed overhead costs are part of the packing operation. Accordingly, we have included fixed overhead related to the packing operation in the packing cost for purposes of the final determination.

Comment 79

Respondent contends that the Department should make year-end accounting adjustments which were noted at verification. Respondent states that it reported the higher unadjusted costs to the Department instead of its actual costs, as adjusted at year-end. Respondent states that the most significant of the year-end accounting adjustments relates to an over-accrual of pension liability. Respondent states that it reported the higher, unadjusted costs rather than the actual labor costs incurred during the POI.

Petitioner agrees with the respondent that the Department should make year-end labor adjustments.

DOC Position

We agree with respondent that its submitted cost data did not include the year-end accounting adjustments. Accordingly, for purposes of the final determination, we corrected the submitted costs to include all 1993 year-end adjustments.

Comment 80

Respondent argues that the Department should accept its reported and verified G&A calculation, which was based on cost of goods sold, for purposes of the final determination.

Petitioner agrees with respondent that the Department's normal practice is to allocate G&A on the basis of cost of goods sold. Petitioner states that there is no apparent reason to depart from the normal methodology unless adequate cost data for each respondent is not available.

DOC Position

We agree with both parties. The Department considers respondent's allocation of interest expense and G&A based on cost of goods sold to be reasonable.

Grupo Intercontinental

Comment 81

Respondent argues the Department should base its final determination on the information submitted by it and verified by the Department. It states that, while the Department used BIA as a basis for its preliminary determination, the Department noted in that determination that it would conduct verification and base its final determination on the verified information if these respondents submitted ''adequate and timely'' responses to supplemental requests for information.

Respondent states that it filed adequate and timely responses to supplemental requests regarding both sales and cost and the Department made no further requests for additional information or clarification. Moreover, respondent states that the Department conducted a detailed verification of the information submitted and found only a few minor discrepancies in revenue and charges.

The petitioner states that respondent's U.S. sales listing is unreliable and should be rejected in favor of BIA. The petitioner argues that respondent revised its U.S. sales listing twice prior to verification and that the Department found additional discrepancies with regard to volume and value of sales at verification. The petitioner also states that revenue and charges were incorrectly reported and identifies discrepancies with respect to box charges, air freight, return credits (*see* Comment 82).

DOC Position

We agree with the respondent. While it was not possible to use the information submitted by respondent for the preliminary determination, the respondent has submitted, and we have accepted, revised information which was examined at verification. Although the information examined at verification contained some discrepancies, these matters were not so significant as to demonstrate that respondent's U.S. sales listing, as a whole or in part, was unreliable.

With respect to the quantity and value of respondent's U.S. sales, the discrepancies found were relatively minor. We find no reason to use BIA for respondent's U.S. sales response.

Comment 82

The petitioner states that at least box charges should be assigned a best information value equal to the lowest amount reported for any sale during the POI or denied altogether as an adjustment. It also states that since air freight charges are misallocated by the number of stems rather than by weight, the Department should identify the highest per-stem charge for any month and apply that charge to all U.S. sales as ''best information.''

The respondent states that the box charge issue noted by the petitioner affected only two customers, and was insignificant. The respondent also states that the petitioner has confused total box charges per observation with the box charge per box. The respondent states that the petitioner's allegations with regard to its reporting of return credits are similarly groundless and reflect a lack of understanding of how the grower reports record return credits. The respondent states that nothing on the record or in the sales verification report supports the contention that its reporting of return credits to the Department was in any way unreliable.

Respondent also rebuts the petitioner's assertion that air freight charges were misallocated since it is charged for air freight on the grower's reports by the number of stems and that is, therefore, the only reliable basis it has for making this allocation. Respondent adds that the grower's reports do indicate air freight attributable to non-roses (*i.e.*, gypsophilia, and alstromeria) and those amounts were deducted from the total allocated to roses. The respondent also states that such information was fully verified by the Department and no discrepancies were reported.

DOC Position

With regard to the question of return credits and air freight and box charges, the calculation methodologies were reasonable and consistent with the information available from grower's reports. With regard to return credits, in particular, we noted at verification that the respondent was able to link return credits to sales. Moreover, we accepted the respondent's explanation that in some instances customers claim credits in excess of the gross value of the merchandise and that in such instances, the respondent does not make customers adjust for such excessive credit claims. We have therefore, made no adjustments to the data that respondent submitted regarding these issues.

Comment 83

Respondent states that for purposes of its final determination the Department should accept its minor clarification in its reporting of Colombian Flower Council Contributions. The respondent states that although certain discrepancies with respect to fees paid to the Colombian Flower Council were found at verification, the respondent provided information at verification clarifying these discrepancies.

DOC Position

While certain discrepancies were discovered by the Department during verification, we verified the revised data and have used this data in our margin calculations.

Comment 84

Petitioner states that respondent excluded various nonoperating expenses from its submitted rose production costs and that the excluded items should be added back as current production costs. Petitioner asserts that absent any evidence to establish that such costs were misclassified in respondent's normal accounting records, there is no basis to exclude these costs.

Respondent maintains that it properly excluded many of the non-operating expenses noted by the petitioner since these expenses did not relate to the current production or sale of roses. Respondent further states that it excluded other expenses listed by the petitioner because the expenses related to rose production costs from years prior to the POI.

DOC Position

We agree with petitioner in part. The unreported general income and expense items relating to Intercontinental as a whole were included in our cost calculations. Certain income and expense items identified during the current year relate to prior periods. Similarly, income and expense items relating to the current year are not identified until a future point in time, thus generating an offsetting effect. Therefore, we adjusted the submitted G&A costs to include the unreported income and expense items.

Comment 85

Respondent states that G&A expenses were properly allocated according to the number of employees assigned to each flower type. Respondent states that the number of workers, by flower type, is a reasonable surrogate for cost of goods sold when allocating G&A, since labor is the largest expense in flower production.

Petitioner states that G&A should be reallocated based on cost of goods sold or area in production, rather than number of employees. Corporate salaries for the finance department, legal department, and the like have no relationship to the number of employees by flower type. Such costs are generally allocated according to cost of goods sold.

DOC Position

We agree with the petitioner and have reallocated G&A using production area. During verification, it was found that the number of employees assigned to each flower type was an estimate and could not be verified.

Grupo Papagayo

Comment 86

The petitioner maintains that one of the exhibits (Exhibit Indirect-3) collected during respondent's verification shows that certain expenses for rents and leases incurred by the sales department, and other expenses related to photocopies and building administration were not included in the reported indirect selling expenses. The petitioner argues that since the expenses are related to the Sales Department, they should be included in respondent's indirect selling expenses.

Respondent states that the expenses contested by the petitioner are G&A, not selling expenses, and were reported to and accepted by the Department as G&A expenses for CV purposes.

DOC Position

We disagree with the petitioner that the contested expenses were related to sales only. Based on our examination of respondent's records, we determined that the expenses in question were properly classified as G&A expenses. The exhibit to which the petitioner refers reflects an account that contains entries related to sales as well as to general expenses. At verification, we examined each entry and supporting documentation made for a specific month and found that the entries classified as G&A expenses were not specifically related to sales. Therefore, the Department did not include the expenses to which the petitioner referred in the calculation of respondent's indirect selling expenses.

Comment 87

The petitioner maintains that the proportion of expenses related to export documentation allocated to rose sales in the U.S. market is disproportionate to the ratio of the U.S. market sales to sales in other markets. Therefore, the petitioner requests that the Department reallocate these expenses based on the ratio of U.S. market sales to the sales in other markets.

Respondent states that the petitioner is mistaken because the portion of the verification report to which petitioner refers describes the proportion of the export document charges attributed to various categories, not just roses.

DOC Position

The petitioner's interpretation of the verification report is incorrect. First, the petitioner interpreted the proportion of expenses related to opening and closing registros for all markets as related only to U.S. sales. Second, the petitioner erroneously interpreted the ratio of rose sales to sales of all products as the ratio of U.S. rose sales to sales of roses in all countries. Therefore, the ratios cited by the petitioner bear no relationship to each other.

It should be noted, however, that the expenses related to opening and closing registros were not reported to the Department. It was not possible to allocate these expenses to rose sales for each market because company officials did not provide sufficient information necessary for such an allocation. Therefore, the Department included the total amount of expenses related to opening and closing registros in the calculation of respondent's indirect selling expenses allocated to rose sales in the U.S. market.

Comment 88

The petitioner argues that the expenses related to the Colombian Grower's Association (CGA) discovered during verification in respondent's accounting records should be included as indirect selling expenses. According to the petitioner, there is no evidence concerning the functions or activities of the CGA that justifies treating these expenses as G&A rather than selling expenses.

The respondent maintains that the fees paid to the CGA should not be treated as indirect selling expenses because CGA does not provide sales-related services.

DOC Position

The Colombian Grower's Association is the same type of entity as Asocolflores. During verification, the Department found no evidence that this association was involved in selling activities. Therefore, the Department did not include these fees as part of respondent's selling expenses.

Comment 89

The petitioner argues that the documentation collected during verification shows that certain expenses were not captured in the total indirect selling expense amount.

The respondent maintains that the expenses in question are related to fees paid to the Colombian Flower Council, which were reported to the Department as direct selling expenses.

DOC Position

We agree with the respondent that the expenses to which the petitioner refers are related to the fees paid to the Colombian Flower Council. Two of these expenses to which the petitioner referred related to sales to U.S. customers, the third was for a U.K. customer. At verification, we established that the U.S. expenses were included in the reported direct selling expenses. Therefore, the Department did not include these expenses in the calculation of respondent's indirect selling expenses.

Comment 90

The respondent states that during the POI, it used a U.S. operator for all international calls, which were paid for in dollars. According to the respondent, the cost of those international calls was properly allocated to all international sales, since the calls were made to customers throughout the world.

The petitioner argues that respondent's claim that the telephone expenses incurred in U.S. dollars were related to telephone calls to all countries cannot be supported. The petitioner requests that the Department treat the entire amount of U.S. dollar denominated telephone charges as selling expenses related to U.S. sales only.

DOC Position

During verification we found no evidence that the cost of respondent's international phone calls was related to telephone calls made to the United States alone. Therefore, the Department used the portion of telephone expenses the respondent allocated to U.S. sales in the calculation of indirect selling expenses.

Comment 91

Petitioner stated that drastic pruning and resting should not be characterized as preproduction costs. Petitioner maintains that pruning is typically performed annually by all rose producers. Petitioner notes that these costs are analogous to general maintenance costs on a piece of equipment. Accordingly, the costs related to the drastic pruning and resting should be expended as incurred, unless respondent's methodology can be tied to the normal accounting practices of the company.

Respondent maintains that the cost of drastic pruning and resting are incurred every thirty months, at the end of each production cycle. Respondent further notes that these costs are normally capitalized on the books and records of the company. Respondent believes that these costs are properly characterized as preproduction costs since they occur prior to the start of rose production. Respondent notes that the reported capitalized pruning and resting costs were verified by the Department.

DOC Position

The drastic pruning/resting crop adjustment methodology is used by respondent in its normal course of business, and is in accordance with GAAP of Colombia. At verification, the reported costs were reconciled to the company's financial records. We further noted at verification that respondent manages its plants to produce roses in thirty month production cycles. At the end of each production cycle, respondent cuts down the rose plants and starts the process over again. Therefore, we believe that it is appropriate for the respondent to capitalize the costs incurred in preparing for the next production cycle and to amortize such costs over the thirty month cycle. The Department considers the drastic pruning/resting methodology to be reasonable and therefore, no adjustment is deemed necessary.

Comment 92

Respondent notes that the Department is correct in suggesting that the write-off of bad debt is a selling expense. However, the write-off of the bad debt is a selling expense related to sales in 1990 and 1991, not to sales during the POI. Therefore, the amount of the write-off should be excluded from finance expense and should not be included in the calculation of POI per unit costs.

Petitioner argues that the bad debt write-off during the POI should be included as a selling expense for the POI. The petitioner notes that, in the future respondent will experience bad debt expense related to sales occurring in the POI, which would not be included in POI costs. Thus, the current write-off of past sales is the best evidence of the proper amount to be deducted currently.

DOC Position

The Department agrees with petitioner. We consider bad debt, by its very nature, to be an indirect selling expense since, under generally accepted accounting principles, bad debt is recovered over time by future price increases (*see, Brass Sheet and Strip from France*, 52 FR 6, 812 (DOC 1987)). Bad debts should be recognized when the expense is recognized.

Comment 93

Respondent maintains that the unreported general expense items do not relate to rose production during the POI. Respondent asserts that they are corrections to sales and production expenses from previous years. Therefore, these costs are not properly attributable to the POI. Respondent contends that if the Department decides to include these costs, then it also should offset them by the related income amounts.

Petitioner argues that there is no basis to offset G&A expense items and year-end accounting adjustments with income unrelated to rose production. According to petitioner there is no evidence to support respondents' claim for this offset.

DOC Position

The unreported general income and expense items relate to the general activities of respondent as a whole. Certain income and expense items identified during the current year relate to prior periods. Similarly income and expense items relating to the current year are not being identified until a future point in time, thus generating an offsetting effect. Therefore, we consider it reasonable to include the financial statement general income and expense items in the G&A calculation.

Grupo Prisma

Comment 94

The respondent claims that each of the deficiencies identified by the Department as a reason for BIA in the preliminary determination are now moot because the problems have been resolved in its September 23, 1994, submission and at verification. Respondent states that the Department thoroughly verified the completeness of its U.S. and home market sales reporting, the accuracy of the adjustments and the methodology used to consolidate sales of different companies of the group. Respondent claims the Department identified only minor data entry errors in its sales report. Accordingly, respondent alleges there no longer exists any sustainable basis for finding that its response contains significant deficiencies or for applying a BIA rate.

Respondent states that the ''significant findings'' noted in the sales verification report all involve minor data entry errors that were corrected and verified. Respondent states that none of the errors detracts from the overall integrity of the questionnaire response. Specifically, respondent indicates that, whether or not Argicola el Faro (one of the respondent's growers) was omitted from the corporate flow chart is inconsequential as Agricola el Faro's products never separately enter the United States. Regarding quantity changes noted in the verification report, respondent notes that these were isolated and the result of input errors. Finally, respondent states that the reporting error to one customer has no impact on its overall numbers and that the error worked against it and respondent states that the Department should use the corrected sales listing it prepared for this customer. The respondent states that the petitioner's entire argument for basing the respondent's final determination on BIA is based on a misrepresentation of a sentence in a draft version of the verification report that the Department has admitted was mistakenly issued to the petitioner.

Finally, respondent alleges that the petitioner took a statement out of context from the verification report to suggest that the respondent's indirect selling expenses are not accurate. Respondent notes that, as its unrelated importer had prepared the noted worksheet based on its own documents and records, the information could not be verified by using its documents. Moreover, respondent states that even disregarding the importer's worksheets and using its own sales values did not change the indirect selling expense that it reported. Thus, respondent claims there is no basis for the petitioner's charge that its response is unreliable.

The petitioner states that, based upon the results of verification, respondent's U.S. sales listing is unreliable and should be rejected in favor of BIA. The petitioner states that the Department found numerous discrepancies during verification including discrepancies in respondent's June sales affecting volume and value and, sometimes, both. The petitioner also notes that, with respect to U.S. indirect selling expenses, the verification report states that, ''importer's worksheets were not maintained as we were unable to verify much of the data.'' Therefore, the petitioner claims that the U.S. sales listing is not credible. The petitioner suggests that the June sales for which the Department checked 100 percent of the transactions might be relied upon as the basis for calculating margins for that month. Without similarly exhaustive revisions to the sales listing for other months, however, the petitioner claims the errors are too numerous to disregard. The petitioner, thus, suggests that BIA be used for purposes of the final determination.

DOC Position

Although we used BIA for respondent for purposes of the preliminary determination, we conducted a complete and thorough verification of its responses. The discrepancies noted at verification were of the type normally discovered at verification. We find no reason to reject the respondent's response in *to to* and have used it for purposes of the final determination.

Comment 95

The petitioner alleges that respondent has not included any salaries in its indirect selling expenses and references an account for the respondent that includes G&A expenses for the company.

Respondent states that, as its unrelated importers in Miami function as its sales force, it does not have a sales force in Miami. Respondent notes that the account the petitioner mentions includes all expenses for general services, including all administrative and general management salaries. Thus, respondent notes that the expenses were properly reported as G&A expenses in the CV tables. Respondent claims it included all relevant salaries in its calculation of indirect selling expenses for the people in Bogota that take care of preparing export documentation and coordinating shipments. Respondent claims that it has no other salaries related to sales to the United States.

DOC Position

We agree with the respondent. The petitioner's allegation is unfounded and we have not adjusted respondent's indirect selling expenses to include salaries.

Grupo Sabana

Comment 96

The petitioner alleges that respondent did not consistently record oil and gas charges associated with rose transportation and that for certain months these charges were reported under other accounts. The petitioner requests that we use, as BIA, the highest cost per unit in a given POI month.

The respondent maintains that it reported all of its freight costs and that the Department verified these costs during both the cost and sales verifications. The respondent also contends that if there are any additional expenses, they are captured in the reported CV. The respondent maintains that there is no justification to resort to BIA since its reported inland freight expenses tie directly into its accounting records. Finally, the respondent notes that if the Department deemed it necessary to include freight expenses in the freight calculation, the amounts involved are insignificant, and the adjustment has no impact.

DOC Position

We agree with the respondent. We established that the reported oil and gas expense plus an amount included on the worksheet sum to the expense reported in the respondent's financial statement. We further note that during the cost verification not every month had an oil and gas expense, but these omissions were due to accounting practices that are generally accepted accounting principles in Colombia. Therefore, we have accepted the respondent's freight expense allocation methodology.

Comment 97

The petitioner argues that respondent should not be using the prime rate when other U.S. importers that had POI short-term borrowings did not obtain such a rate. The petitioner maintains that we should increase the respondent's interest rate to be consistent with the commercial rate actually charged to other importers during the POI.

The respondent notes that there is no record evidence that it used an inappropriate U.S. interest rate. Therefore, the respondent maintains that the Department should accept its U.S. credit expense calculation.

DOC Position

We agree in part with the petitioner. In situations where there are no borrowings in the currency of the sales made, we have used external information about the cost of borrowings in a particular currency (*see Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-weld Pipe Fittings from Thailand*, 59 FR 50568, October 4, 1994). We are using an average of the interest rates reported by those respondents that had actual U.S. borrowings during the POI. We consider this to be the best estimate of the U.S. dollar borrowing rates for those respondents that had no short-term borrowings, as it is based on the actual expenses of other respondents.

Comment 98

The petitioner argues that the Department should increase the number of days used in the respondent's expense calculation because the respondent's methodology only accounts for merchandise which has already reached U.S. inventory and does not take into account the time during which merchandise is transported from the factory to Miami.

The respondent maintains that in the inventory day calculation the Department should not increase the number of days by the amount the petitioner is proposing because that amount represents the time it takes to transport the product to Toronto and Montreal and not to Miami.

DOC Position

We agree in part with the petitioner. Our verification report at exhibit 24 demonstrates that the respondent did not take into account the time necessary to transport the merchandise from the factory to Miami. Therefore, we added to the number of inventory days an amount which other respondents claimed was necessary to transport product from the factory to Miami.

Comment 99

Respondent argues that the Department should allocate certain production costs based on the number of beds under cultivation and not based on the hectares under cultivation, because all of its recordkeeping is based on beds.

Petitioner contends that allocation by beds is less precise because it does not account for walkways, common areas, and there is no evidence that subject and nonsubject beds are the same size.

DOC Position

The Department agrees with the respondent. During verification, the Department reviewed the beds under cultivation allocation methodology and found it to be a reasonable approach. The methodology is used in respondent's normal course of business, and has been accepted in the *Fresh Cut Flower* reviews.

Comment 100

The petitioner argues that cull revenue should not be offset against production costs. Petitioner argues that a certain expense is diminished to the extent of the cull revenue.

Respondent claims that cull revenue must be included in the calculation of CV. Respondent argues that there is no justification for disallowing the credit to production costs because of where the revenues are deposited.

DOC Position

We agree in part with the petitioner. The Department allowed only the rose cull revenue recorded in respondent's normal accounting records to offset production costs. All claimed cull revenue which had not been appropriately deposited into respondent's bank account has been excluded. The cull revenue that is not deposited into respondent's bank account is neither recorded nor reported in any of respondent's accounting records.

Grupo Sagaro

Comment 101

The petitioner argues that the discovery of unreported stems that were sold to one customer in June 1993 undermines the reliability of respondent's submission. The petitioner also contends that the verification of February 1993 sales did not include this customer. For these reasons, the petitioner argues that the Department should not rely on respondent's data in these circumstances. If the Department used respondent's data the petitioner argues that it should increase the quantities sold to all customers in June proportionately or, at the least, increase the quantity sold to this customer.

The respondent argues that there are no grounds for the petitioner's assertion that a minor discrepancy in its sales reporting to one customer undermines its response. The respondent maintains that this discrepancy accounts for an insignificant amount of total U.S. sales. The respondent explains that the error resulted when the customer in question changed the format for reporting inventories on its growers report. June was the first month of this change and is the month in which the error occurred. The respondent maintains that the error was limited to this one customer in a single month. Finally, the respondent states that the Department verified that it had no sales to this customer in February.

DOC Position

We disagree with the petitioner's assertion that respondent's response is unreliable. At verification, we reviewed the volume and value of respondent's U.S. sales and found only minor discrepancies, none of which would render its response unreliable. Therefore, based on the growers report for this customer, we have revised respondent's sales listing to reflect the quantity and value of sales to this customer during June.

Comment 102

The petitioner maintains that credit costs should be revised to reflect only the short-term interest rate as provided in the sales verification report.

Respondent maintains that it does not object to the use of the interest rate the Department calculated at verification for home market credit expenses.

DOC Position

We agree with both parties and have applied the verified home market short-term interest rate in the calculation of home market credit expenses.

Comment 103

The respondent argues that we should use its reported credit period in its home market credit expense calculation.

DOC Position

We disagree with the respondent. At verification, we found credit periods longer and shorter then the period reported by respondent. Therefore, we used the average of the credit periods found at verification, because that average most closely reflects the actual home market credit periods.

Comment 104

The petitioner argues that unreported direct selling expenses incurred on sales to one customer should be allocated to only subject merchandise and not over all other sales. The petitioner states that the Department should increase this customer's direct selling expenses accordingly and provided a calculation of this expense.

DOC Position

We agree with petitioner's argument but not its suggested calculation formula. We have increased this customer's direct selling expense by the unreported amount and allocated the total of these expenses to the rose sales of this customer.

Comment 105

The petitioner argues that foreign inland freight charges on U.S. sales should be increased to reflect charges allocated per stem sold, as per the verification report. Additionally, the petitioner requests that wire transfer fees be corrected as per the verification report.

DOC Position

Respondent made these corrections on its December 7, 1994, sales listing. We accepted these changes and used them for the final determination.

Comment 106

Respondent argues that the Department should permit it to capitalize and amortize certain costs, which would only benefit production in future years, but were expensed for financial statement purposes.

Petitioner argues that items expensed in respondent's accounting records in the normal course of business should not be capitalized and amortized for purposes of the response. Petitioner argues that there is no basis on the record, and no verification exhibit, to support the claim that such items should be capitalized or to indicate a particular useful life for each of the identified costs.

DOC Position

We agree with respondent that these costs benefit future years. Accordingly, it is reasonable for these assets to be capitalized in the year of acquisition. *See* also Comment 19.

Comment 107

Respondent argues that the cost of its worm project should not be included in CV. Respondent argues that, although it is theoretically possible for the fertilizer generated from the worm project to be used on rose plants, the project was not started with that intention and it has not analyzed whether the fertilizer would be appropriate for use in rose beds. Additionally, respondent notes that the fertilizer from the worm project was not used for the production of roses during the period of investigation.

Petitioner claims that costs incurred with respect to the worm culture project for soil preparation should be allocated to rose production. Petitioner argues that this type of research and development (''R&D'') expense should be expensed in the current period. Petitioner states that, since the respondent characterizes the project as related to rose production, there is no basis to exclude such expenses from the current period.

DOC Position

We agree with petitioner that the worm culture project costs should be categorized as R&D. There is no conclusive evidence that this project is R&D specific to either rose production or any other type of production activity. Therefore, we consider the worm culture project to be related to general R&D and, accordingly, have included its costs in the G&A expense calculation.

Comment 108

Petitioner argues that the Department should reject the allocation of costs to non-subject merchandise as it was not substantiated on the record or during verification. Specifically, petitioner argues that verification exhibits 1, 9, and 15 show conflicting results for cultivation area of the different flowers grown by respondent. Absent evidence to support the basic allocation of costs, the entire cost response should be rejected.

Respondent argues that its allocation of costs by area under cultivation is fully supported in the record. Respondent believes that petitioner's complaint that the percentage areas in respondent's cost exhibits CV–9 and CV–15 do not agree is without merit. Respondent notes that those exhibits support the allocations of different classes of expenses, relate to different corporate entities, and the percentage areas should not agree. Additionally, respondent notes that cost exhibit CV–1 does not agree with either of the other two exhibits because of a printing error which was addressed at verification.

DOC Position

We agree with respondent that its allocation of costs between subject and non-subject merchandise based on area under cultivation is fully supported by data on the record. Therefore, no adjustment is deemed necessary for purposes of the final determination.

Grupo Tropicales

Comment 109

The petitioner notes that, because the Department found discrepancies in respondent's return credits for five preselected U.S. sales, respondent's return credit reporting is unreliable. The petitioner asserts that return credits were overstated, either by volume or value, thus increasing U.S. price. The petitioner suggests that we reject respondent's return credits claim entirely or make a downward adjustment to all U.S. return credits equal to the excess amount reported for certain observations.

The respondent claims that the record does not support taking the action requested by the petitioner with respect to its return credits. Respondent describes its return credit reporting methodology in its brief and notes that its methodology would increase its dumping margin. The respondent states that the Department should not disregard or adjust return credit volumes and then not adjust return credit values or vice versa. Moreover, the respondent claims that there is no reason to make any changes to its return credits based on the minor discrepancies noted in the verification report.

DOC Position

We agree with the petitioner that respondent's return credits did not verify as reported. We have made a downward adjustment to the sales on which return credits were reported. This adjustment equals the overall average error as a percentage of gross unit price for the months which we have information.

Comment 110

The petitioner claims that respondent's credit days should not be adjusted to account for outstanding return credit claims. The petitioner states that verification is not the appropriate time for submitting a new and substantially revised claim.

Respondent states that it revised its calculation of days outstanding in its imputed credit calculation to account for return credits and revised certain payment and balance figures. The respondent states that ignoring return credits leads to an ever increasing balance for receivables, a growing portion of which simply are not receivables. The respondent claims that the Department should use the days outstanding as revised and verified.

DOC Position

We agree with the respondent. At verification, respondent presented revised U.S. credit days outstanding to account for outstanding return credit claims. This constituted a minor change to the data they reported. Consistent with our treatment of minor changes noted at verification, we have used respondent's revised U.S. credit days.

Comment 111

The petitioner notes that respondent did not claim to have paid commissions on its ESP sales to its related U.S. importer. However, the related importer's grower's reports indicate that commissions were paid. Thus, the petitioner states that these commissions should be deducted from ESP.

The respondent states that no commission was reported because the two companies were related during the period in which the sales took place and, thus, the commissions should not be deducted on the ESP sales.

DOC Position

Although respondent indeed pays its related U.S. importer an arm's length commission, we have ignored this commission for the reasons stated in General Issue Comment 7.

Comment 112

Respondent claims that we should accept the minor revisions, corrections and clarifications presented prior to verification and discovered during verification. Specifically, respondent states that the Department should accept a correction to the calculation of foreign inland freight that was verified. Also, respondent states that none of the discrepancies noted at verification had a significant impact on the margin calculations.

DOC Position

We agree with the respondent that the discrepancies noted at verification were minor in nature and we have, thus, used respondent's verified data.

Rosex Group

Comment 113

The petitioner maintains that, according to the sales verification report, the respondent did not deduct return credits for one customer in the month of February in its sales listing. Therefore, the petitioner argues that, as BIA, the Department should make a deduction from all of the respondent's U.S. prices equal to the percentage of the unreported return credits to revenue for February.

The respondent argues that the error which affected one return credit for one customer for one month of the POI was insignificant. The respondent contends that small errors are inevitable when such a large amount of information is required. The respondent contends that the petitioner's claim that the entire sales listing is unreliable or its suggestion that, if the sales listing is accepted, every U.S. sales price should be reduced by the percentage of the error, is unsupportable.

DOC Position

We disagree with the petitioner that, due to an error in month of the POI for one customer, we should reject the respondent's entire response and base its final margin on BIA. At verification we found that this discrepancy was limited to one customer and no discrepancies were found for other customers. However, because the respondent did not report any quality credits for this customer, we have based the return credits for this customer on BIA. We reduced the respondent's U.S. gross unit price in each month of the POI by the percentage of returned credits to sales during the month examined at verification.

Comment 114

The petitioner contends that respondent failed to allocate foreign inland freight costs to stems sold because it included ''stems dumped'' in its formula for allocating freight costs. Therefore, the petitioner maintains that the freight costs per box decreased when the respondent sold fewer boxes than it shipped in a given month. The petitioner argues that, as the Department found in its verification report, the respondent should have increased its cost per box shipped in order to allocate its total foreign inland freight to roses sold. The petitioner further argues that the Department should, as BIA, apply foreign inland freight charges equal to the highest calculated charge according to the respondent's methodology, or to the amount calculated on shipments in which the total number of stems shipped equalled the number of stems sold.

The respondent argues that it reported all of its foreign inland freight expenses during the POI. Therefore, the respondent contends, it did not underreport or overreport its foreign inland freight in any way. The respondent maintains that its allocation methodology is more accurate than directly allocating monthly costs to monthly sales. The respondent contends that its methodology correlates freight expenses with sales that were not made in the same month that the expenses were incurred. The respondent states that this methodology prevents the distortional effects of unadjusted monthly per unit foreign inland freight costs. The respondent maintains that the Department should not penalize it for reporting its foreign inland freight in the most accurate manner possible and should accept its methodology. The respondent argues, alternatively, that the Department can use the verified figures and calculate a simple monthly foreign inland freight expense.

DOC Position

We agree with the petitioner that the respondent's methodology did not account for roses which were shipped but not sold for certain customers. At verification, we found that when customers did not sell the same amount of roses which were shipped in a given month, the allocation of foreign inland freight expenses were either overstated or understated. However, we agree that the respondent attempted to provide the most specific inland freight expenses possible and that the total yearly amount of inland freight was verified. Since the Department decided to average USP by all roses combined, we have recalculated the respondent's foreign inland freight expenses for all customers with this expense using a yearly allocation without regard to stem length or rose type.

Comment 115

The petitioner states that, according to the sales verification report, the methodology the respondent used to report air freight for one of its customers is flawed. Therefore, the petitioner argues that, as BIA, the Department should deduct the highest per stem air freight charge calculated for any sale to that customer.

The respondent contends that the Department should correct the minor discrepancy in its air freight calculation and use the verified figures. The respondent argues that a discrepancy of this limited magnitude should not result in BIA as the petitioner argues.

DOC Position

We agree with the respondent that air freight expenses for those months that we verified (i.e., May and October) should be applied because this discrepancy was limited to one customer. Because we found that the respondent overstated and understated this expense in the months reviewed at verification we have added the aggregated amount of the understated air freight expenses for this customer for the verified months and applied that amount to all other months during the POI for this customer.

Comment 116

The petitioner maintains that the respondent offset interest expenses with ''other'' financial income. Since the Department found that the respondent had no short-term interest income, the petitioner argues the ''other'' financial income should be disregarded and that the interest expense cannot be offset for purposes of the final determination.

The respondent argues that the absence of short-term interest income has no relevance as to whether the respondent had other financial income relating to production that should be included in CV. The respondent maintains that the Department verified its financial income and noted no discrepancies. Additionally, respondent states that other financial income, not short-term interest income, was used as an offset to interest expense and the fact that it was not short-term interest income is not relevant.

DOC Position

We agree with the petitioner. We disregarded other financial income as an offset to interest expense because it is Department practice to only allow an offset to interest expense for interest income generated from short-term investments of working capital. Since the other financial income was not generated from short-term investments of working capital, the offset was disallowed.

Comment 117

The respondent argues that the Department should use credit periods based on actual payment data which was verified by the Department with only minor discrepancies.

DOC Position

We agree with the respondent and have used the verified information.

Comment 118

The respondent argues that the Department should use its verified indirect selling expense information for purposes of the final determination.

DOC Position

We agree with the respondent and have used the verified information.

Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of fresh cut roses from Colombia, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated margins amount by which the FMV of the subject merchandise exceeds the USP, as shown below. The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Margin percent
Agrorosas	0.00
Grupo Papagayo (and its related farms Agricola Papagayo, Inversiones Calypso S.A., Omni Flora Farms Inc., and Perci S.A.)	3.02
Flores Mocari S.A. (and its related farms Cultivos Miramonte and Devor Colombia)	3.26
Grupo Sabana (and its related farms Flore de la Sabana S.A. and Roselandia S.A.)	5.80
Flores la Frangancia	3.31
Grupo Benilda (and its related farms Agricola La Maria S.A., Agricola La Celestina Ltda., and Agricola Benilda Ltda.)	5.07
Grupo Clavecol (and its related farms Claveles Colombianos Ltda., Sun Flowers Ltda., Fantasia Flowers Ltda., Splendid Flowers Ltda.)	1.56
Floramerica Group (and its related farms Floramerica S.A. (Santa Lucia and Santa Barbara Farms), Jardines de Colombia Ltda., Flores Las Palmas Ltda., Cultivos del Caribe Ltda., Jardines del Valle Ltda., and Cultivos San Nocolas Ltda.)	4.95
Rosex (and its related farms Rosex Ltda. (La Esquina and Paraiso Farms), Induflora Ltda., and Rosas Sausalito Ltda.)	3.06
Grupo Sagaro (and its related farms Flores Sagaro S.A. and Las Flores S.A.)	0.00
Grupo Tropicales (and its related farms Rosas Colombianas Ltda., Happy Candy Ltda., Mercedes Ltda., and Flores Tropicales Ltda.)	0.00
Grupo Prisma (and its related farms Flores del Campo Ltda., Flores Prisma S.A., Flores Acuarela S.A., Flores el Pincel S.A., Rosas del Colombia Ltda., Agropecuaria Cuernavaca Ltda.)	1.29
Grupo Bojaca (and its related farms Agricola Bojaca Ltda., Universal Flowers, and Plantas y Flores Tropicales Ltda. (Tropifora))	22.14
Andes Group (and its related farms Flores Horizonte, Cultivos Buenavista, Flores de los Andes, and Inversiones Penasblancas)	0.00
Caicedo Group (and its related farms Agrobosque, Productos el Rosal S.A., Productos el Zorro S.A., Exportaciones Bochia S.A.—Flora Ltda., Flores del Cauca, Aranjuez S.A., Andalucia S.A., Inverfloral S.A., and Great America Bouquet)	36.04
Grupo Intercontinental (and its related farms Flora Intercontinental and Flores Aguablanca)	11.94
All Others	6.41

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry, within 45 days. If the ITC determines that material injury or threat of material injury does not exist, the proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on fresh cut roses from Colombia entered or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 26, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–2608 Filed 2–3–95; 8:45 am]

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[A–331–801]

Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador

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

EFFECTIVE DATE: February 6, 1995.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Pamela Ward, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3965 or (202) 482–1174, respectively.

Final Determination

We determine that fresh cut roses (roses) from Ecuador are being, or are likely to be, sold in the United States at less than fair value, as provided in 19 U.S.C. 1673d. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the notice of preliminary determination on September 13, 1994 (59 FR 48299, September 20, 1994), the following events have occurred.

In September and October, the Department of Commerce (the Department) received responses to the Department's supplemental questionnaires.

On September 20 and 27, 1994, Arbusta, Florinsa and Guanguilqui Agro Industrial S.A. (Guaisa), three of the mandatory respondents, and Inversiones Floricola S.A. (Floricola), the fourth mandatory respondent, respectively, requested a postponement of the final determination. On September 28, 1994, the Department agreed to postpone the final determination until January 26, 1995 (59 FR 50725; October 5, 1994).

On September 20, 1994, Arbusta made allegations of clerical errors in the calculation of Arbusta's preliminary margin. In addition, Florinsa requested that the Department reconsider its preliminary determination and assign it a less punitive BIA rate.

On September 28, 1994, the Department received a new sales listing from Arbusta. This was returned to Arbusta on September 30, 1994, as untimely in accordance with 19 C.F.R. 353.31(a).

On September 29 and 30, 1994, the Department received requests for a public hearing from respondents, petitioners, and the Government of Ecuador.

On September 30, 1994, petitioner submitted comments on the Department's verification outline.

On October 3, 1994, White and Case entered a Notice of Appearance on behalf of Denmar, S.A. an interested party. Denmar S.A. and its related companies are, collectively, a producer, exporter and importer of fresh cut roses from Ecuador.

Department personnel conducted sales and cost verifications of respondents' data from October 3, 1994, through November 11, 1994, in Quito, Ecuador; the Netherlands; Miami, Florida; New York, New York; and Los Angeles, California.

On October 14, 1994, the Department received a notice of appearance from Klayman & Associates on behalf of the Government of Ecuador and received comments on the preliminary determination on October 17, 1994.

On November 23, 1994, the Department received new computer tapes from Floricola.

In December the Department issued its verification reports.

The Department received general issues case briefs on December 2 and 12, 1994. The Department received general issues rebuttal briefs on December 16 and 19, 1994. The Department received company specific case briefs on December 23 and 30, 1994. The Department received company specific rebuttal briefs on January 5, 1995.

On January 3, 1995, the Department received new computer tapes from Guaisa, Florinsa and Arbusta.

On January 5, 1995, Klayman & Associates withdrew its appearance on behalf of the Government of Ecuador. On the same day, Kay, Scholer, Fierman, Hays & Handler entered an appearance on behalf of the Government of Ecuador.

A public hearing was held on January 6, 1995.

Scope of Investigation

The products covered by this investigation are fresh cut roses, including sweethearts or miniatures, intermediates, and hybrid teas, whether imported as individual blooms (stems) or in bouquets or bunches. Loose rose foliage (greens), loose rose petals and detached buds are excluded from the scope of these investigations. Roses are classifiable under subheadings 0603.10.6010 and 0603.10.6090 of the *Harmonized Tariff Schedule of the United States (HTSUS).* The *HTSUS* subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1993, through December 31, 1993. *See* the April 14, 1994, Memorandum from the Team to Richard W. Moreland.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

We have determined, in accordance with 19 U.S.C. 1677e(c), that the use of best information available (BIA) is appropriate for sales of the subject merchandise by Florinsa. We have found that Florinsa's original and deficiency questionnaire responses were unusable for the final determination because they contained significant deficiencies and could not be verified. *See* the January 19, 1995, Memorandum from the Team to Barbara Stafford. These deficiencies were so substantial that it was not possible for the