

limited to this preliminary determination on critical circumstances if they are submitted to the Assistant Secretary for Import Administration no later than March 6, 1995.

This determination is published pursuant to section 733(f) of the Act.

Dated: March 3, 1995.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

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[A-301-801 and A-331-801]

**Amended Final Determinations of Sales at Less Than Fair Value: Fresh Cut Roses From Colombia and Ecuador**

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

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** James Maeder or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3330 or (202) 482-3965, respectively.

**Amendments to the Final Determinations**

We are amending the final determinations of sales at less than fair value of fresh cut roses from Colombia and Ecuador to reflect the correction of ministerial errors made in the margin calculations in these determinations. Because corrections of ministerial errors for one company in the Colombian investigation results in its exclusion from any potential antidumping order, we are issuing this notice prior to the final determination of the U.S. International Trade Commission. These amendments to the final determinations are being published in accordance with 19 CFR 353.28(c).

**Applicable Statute and Regulations**

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

**Case History and Amendments of the Final Determinations**

In accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), on February 6, 1995, the Department of Commerce (the Department) published its final

determinations that fresh cut roses from Colombia and Ecuador were being sold at less than fair value (60 FR 6980, 7019). Subsequent to the final determinations, we received timely ministerial error allegations from certain respondents in the Colombian and Ecuadorian investigations pursuant to 19 CFR 353.28. Section 751(f) of the Act defines a "ministerial error" to be an error "in addition, subtraction or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial." Below is a discussion of the alleged errors that we determined to be ministerial errors as defined by section 751(f) of the Act. These, and the alleged errors that the Department determined not to be ministerial in nature, are detailed further in the Decision Memoranda from Gary Taverman to Barbara R. Stafford, dated March 3, 1995, which is on file in the Import Administration Central Records Unit, Room B-099 of the Main Commerce Building.

**Colombia**

On February 7 and 8, respondents Rosex Group, Prisma Group, Agricola Bojaca, Grupo Sabana, Flores Mocari, Caicedo Group, Grupo Intercontinental, and Grupo Papagayo, alleged that the Department made ministerial errors in its final determination and requested that the Department correct these errors. Petitioner provided comments on these allegations on February 14, 1995.

**Rosex Group**

*Issue 1:* Rosex Group states that the Department made a ministerial error in the calculation of its per unit credit expense. Rosex Group stated that it changed its reported interest rate in its December 5, 1994, sales listing from a dollar-denominated rate to a peso-denominated interest rate. Because Rosex Group calculated its U.S. imputed credit using a peso-denominated rate, it contends that the Department should have adjusted this rate instead of a dollar-denominated rate. Petitioner maintains that the Department's computer instructions to change the peso-based interest rate to a dollar-based rate appear to be correct.

We agree with respondent that this error constitutes a ministerial error as defined by section 751(f) of the Act. It was the Department's intention to use a U.S. interest rate of 7.575 percent in Rosex Group's imputed credit calculation. Therefore, we have corrected this ministerial error.

**Prisma**

*Issue 1:* Prisma argues that the computer program used to calculate its margin contained an error which incorrectly computed the per-unit commission for all U.S. sales observations. Stating that the Department intended to calculate a U.S. commission for ten specific U.S. sales observations, Prisma asserts that the program mistakenly caused every U.S. sales commission to be recalculated. In addition, Prisma claims that there is also a typographical error in the calculation of commissions for one sales observation.

We agree with Prisma that these are ministerial errors, and have revised the computer program accordingly.

*Issue 2:* With respect to inventory carrying costs, Prisma notes that it included the period normally covered by inventory carrying cost in its imputed credit calculation. As such, Prisma argues that the Department double-counted this expense by calculating a separate inventory carrying cost. Petitioner maintains that the Department imputed inventory carrying cost for seven days as best information available (BIA) for those respondents that failed to provide the data, and argues that because Prisma did not submit the data in the requested form, it cannot now argue double-counting to circumvent the application of BIA.

We agree with Prisma. We used BIA for inventory carrying cost for those respondents who had related parties in the United States and did not report inventory carrying costs on their exporter's sales price (ESP) sales. However, because Prisma does not have a related party in the United States, we incorrectly calculated inventory carrying costs. Therefore, we have adjusted for this ministerial error.

*Issue 3:* Prisma contends that the Department's inflation adjustment computation incorrectly assumed that all companies within the Prisma Group did not include the 1992 inflation adjustment in their submitted amortization expense. However, respondent notes that the cost verification report demonstrates that Prisma did include the 1992 inflation adjustment for farm Del Campo in its submitted amortization expenses.

We agree. The cost verification report at page 9 indicates that one of the seven Prisma Group farms (Del Campo) did include in its submitted cost information its inflation adjusted pre-production material amortization costs for years prior to the period of investigation (POI). The other six farms that make up the Prisma Group did not

make adjustments for inflation. Because we did not intend to make an adjustment for Del Campo that had already been made, we have recalculated the inflation adjustment.

### **Bojaca**

*Issue 1:* Bojaca contends that it was incorrect for the Department to use BIA to impute amounts for brokerage and duties whenever the values for those expenses were reported as zero for U.S. ESP customers. Bojaca asserts that it was only for customer 4 that there were zero values for brokerage or duties, and maintains that because it could not segregate these amounts, it reported the combined amounts under air freight.

Petitioner argues that Bojaca failed to cite to any questionnaire response or verification exhibit which informed the Department that brokerage and duty expenses were consolidated with air freight. Petitioner asserts that Bojaca did not explain why a reasonable allocation methodology could not segregate these amounts, and adds that it is not clear that brokerage and duty expenses were always included in air freight. Therefore, petitioner asserts that the Department's choice of BIA to fill Bojaca's reported zero values does not constitute a ministerial error.

We agree with respondent in part. We verified that Bojaca had included its duty and brokerage expenses in its air freight expenses for customer 4. Therefore, we incorrectly applied BIA to customer 4. However, we found that there are zero values for other ESP customers. Therefore, we have continued to use BIA for the other ESP customers that have a zero value reported in these fields.

*Issue 2:* Bojaca argues that the Department incorrectly calculated constructed value (CV) packing expense by using total packing expenses for roses, irrespective of destination, rather than total U.S. packing expense.

We agree. We intended to use total U.S. packing expenses rather than total packing expenses in our CV calculation. We have recalculated CV packing expense to correct this error.

*Issue 3:* Bojaca argues that the Department erroneously allocated the entire group-wide interest expense to roses, when it should have allocated only the proportion of the group-wide interest expense associated with rose activities. Bojaca argues that the interest expense associated with the dairy farm and mini-roses should not have been included in the calculation.

We agree. We intended to exclude from our cost calculations the portion of interest expense related to the dairy farm. We purposely did not allocate any

interest expense to the mini-roses because: (1) Respondent indicated that an insignificant portion (less than one percent) of the total cultivated area of one of the three farms within the Bojaca Group produced mini-roses; and, (2) because the cost of production for mini-roses, the basis used to allocate interest expense to Bojaca's different products, was not provided by the company. We intended to compute interest expense by excluding only the portion of interest expense that relates to the dairy farm. We have made this adjustment, but only as it related to the dairy farm.

### **Mocari**

*Issue 1:* Mocari argues that the Department mistakenly deducted air freight expenses which it did not incur on its purchase price (PP) sales transactions. Mocari points out that these sales were made on an FOB Bogota basis, and requests that the Department deduct the air freight expenses from only the ESP sales transactions. The petitioner argues that Mocari had ample opportunity throughout the investigation to correct any error in reporting air freight. In addition, the petitioner maintains that Mocari has not provided a basis which demonstrates that its proposed correction would be limited only to removing erroneous expenses.

We agree with respondent. We verified that Mocari did not pay air freight for PP sales. Therefore, we have corrected the error by deducting amounts for air freight from ESP sales only.

*Issue 2:* Mocari claims that the Department mistakenly included it in the list of companies that had no U.S. borrowings during the POI and should not have used BIA to calculate imputed credit expenses and inventory carrying cost. Mocari maintains that the Department should have used its actual borrowing rate instead of the publicly ranged interest rate to calculate imputed credit expenses and inventory carrying costs.

We agree with respondent. We intended to use Mocari's actual interest rate in our imputed credit expenses and inventory carrying costs calculations. Mocari's financial statements show that it paid interest on short-term borrowings during the POI. Accordingly, we have revised Mocari's imputed credit calculation and inventory carrying cost to use its short-term dollar-denominated interest rate.

*Issue 3:* Mocari claims that the Department should not have subtracted the total number of stems returned from the sales quantity indicated on the CV tables because the amount reported was

already net of returns. Therefore, Mocari requests that the Department recalculate its cost of manufacture (COM) using the sales quantity indicated on line 8 of the CV tables. In addition, Mocari requests that the Department not subtract additional stems from the amount reported on line 8 of the CV tables because such action represents an improper double-counting of returns.

The petitioner states that Mocari should have reported an amount which was inclusive of returns in line 8 of the CV tables instead of an amount which was net of returns. The petitioner argues that Mocari should have notified the Department earlier that the amount reported on line 8 of the CV table was net of returns. Therefore, petitioner maintains that clerical error comments are not the forum in which to determine new factual claims.

We agree with respondent. Sales verification exhibit 19 shows that the amount Mocari reported on line 8 of the CV tables is net of returns. Accordingly, we have recalculated the COM, interest, and general and administrative expenses for Mocari using the quantity amount on line 8 of the CV tables. Further, because this figure is net of returns, we did not deduct an additional amount for returns from this figure; this action would have represented double-counting.

### **Grupo Intercontinental**

*Issue 1:* Grupo Intercontinental (Intercontinental) alleges that in its CV calculation, the Department erred in its calculation of a home market packing cost as BIA. Intercontinental argues that the Department should have used its U.S. packing cost, as required by section 353.50(a)(3) of the Department's regulations. Intercontinental further states that instead of using the verified U.S. packing expense in its CV calculation, the Department used a home market BIA amount that should have been applied only to home market sales of export quality roses for which no packing costs were reported. Therefore, Intercontinental requests that the Department apply the U.S. packing expense in its CV calculation.

We agree that the Department erred in using the BIA home market packing expense for CV. While we properly applied the per stem packing cost for purposes of the cost test, we intended to use the verified U.S. packing amount for calculating CV. Therefore, we revised our calculation to correct this clerical error.

*Issue 2:* Intercontinental states that the Department intended to correct Colombian Flower Council (CFC) fees for certain customers in certain months

and that, in making the programming changes necessary to accomplish this task, the Department mistakenly changed the CFC fees for all customers in all months. We agree, and have corrected this error.

#### **Caicedo Group**

*Issue 1:* Caicedo states that the Department's inflation adjustment was intended to be a reasonable estimate of the effects of inflation on depreciation and amortization expenses denominated in historical pesos. Caicedo argues, however, that the Department erred in applying its inflation adjustment to the company's total reported cost of cultivation, including current cultivation costs, and that this is the equivalent of punitive "BIA." Caicedo further argues that its record provides information regarding the company's 1993 depreciation and amortization of pre-production expenses.

We agree that the Department mistakenly adjusted Caicedo's current cultivation costs for inflation. Accordingly, we have recalculated the inflation adjustment by applying the determined inflation rate to non-current, pre-production amortization and depreciation costs only.

*Issue 2:* Caicedo argues that the Department should adjust the cull revenue to recognize the insurance compensation proceeds the company received for hailstorm damage. Caicedo states that the insurance proceeds, which were originally reported as an offset to overhead, were subsequently reclassified by Caicedo and included in the balance for cull revenue. Caicedo concludes that the Department made a ministerial error by excluding the reduction in rose production costs resulting from the insurance proceeds.

We agree. We have reduced Caicedo's total costs by the insurance proceeds received.

*Issue 3:* Caicedo contends that the Department made two ministerial errors in its allocation of interest expenses. First, Caicedo argues that the Department erred in allocating interest expense over total export quality rose stems sold during the POI. Because the particular companies involved produce and sell other types of flowers, Caicedo maintains that the Department should have allocated interest expense over total flower stems. Second, Caicedo claims that the Department failed to allocate any of the combined interest expense to Great American Bouquet S.A. (GAB), a division of Inverfloral LTDA (Inverfloral) that does not grow flowers, but, rather, incorporates numerous flower types, including roses, into bouquets. Caicedo concludes that

the Department's failure to allocate the combined interest expenses to GAB was inadvertent, and that the Department intended to allocate the combined interest expenses of the four grower/exporters over their combined stems sold for all flower types.

We agree. We intended to allocate the combined interest expense of the four grower/exporters to the rose operations of those companies, including Inverfloral's GAB division. Therefore, we recalculated Caicedo's interest expense by first allocating the total combined interest expenses of the four companies between Inverfloral/GAB (non-grower) and the other three companies (which all grow flowers) based on the ratio of Inverfloral/GAB's productive and long-term assets to the total productive and long-term assets of all four companies. Because companies generally borrow capital in order to finance the purchase of such assets, we consider this approach to be the most reasonable indicator of the borrowing needs of the rose production versus bouquet assembly sides of Caicedo's operations. For each of the four grower/exporters, we included in productive assets the year-end 1993 financial statement balances for inventory, crop investments, crops in development, and long-term assets, including fixed assets.

In order to allocate the remaining interest expense between rose and other flower growing operations at the three production companies, we used the ratio of rose cultivation area to total cultivation area, for the three companies that grow flowers. This methodology is consistent with that used for several of the other Colombian rose growing companies.

#### **Ecuador**

On February 8, 1995, Arbusta-Agritab (Arbusta) and Guanguilqui Agro Industrial S.A. (Guaisa) made timely allegations that the Department made ministerial errors in its final determination. On February 16, 1995, petitioner provided its comments on the alleged errors.

#### **Arbusta**

*Issue 1:* Arbusta states that the Department incorrectly multiplied DHL delivery charges by quantity before subtracting this expense from U.S. price.

We agree. Because we did not intend to multiply the per stem DHL expense by quantity, we have corrected this error.

*Issue 2:* Arbusta argues that the Department incorrectly disallowed the company's capitalization of costs incurred during the vegetative period.

We agree. Because we inadvertently overlooked the inclusion of the capitalization and amortization of prior period vegetative period costs, we have adjusted the CV to allow for the current period capitalization of vegetative period costs.

*Issue 3:* Arbusta alleges that the Department mistakenly added actual historical depreciation expenses to CV instead of only the revaluation of those expenses. Arbusta contends that this addition double counts the amount of historical depreciation.

We agree. We inadvertently added historical depreciation to CV. Therefore, because we unintentionally double-counted this expense, we have corrected the error.

*Issue 4:* Arbusta states that in its CV calculation the Department used an incorrect packing expense. Petitioner also notes that the packing cost used in the CV calculation for Arbusta conflicts with the Department's analysis memorandum.

We agree with both petitioner and respondent, and determine this to be a ministerial error. Accordingly, we have corrected the packing expenses used in CV.

#### **Guaisa**

Guaisa contends that the Department reallocated certain expenses to roses based on an incorrect rose area percentage for Guaisa farm.

We agree with Guaisa in part. We found a typographical error in our calculation of the correct roses cultivated area. However, the rose area calculated by Guaisa that it requested the Department use in its recalculation is incorrect. Accordingly, we have corrected the typographical error we found in our original calculation and rejected the figure calculated by Guaisa.

#### **Scope of Investigation**

The products covered by these investigations 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 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 these investigations is dispositive.

#### **Suspension of Liquidation**

In accordance with 19 U.S.C. 1673b, we are directing the U.S. Customs

Service to continue to suspend liquidation of all entries of fresh cut roses from Colombia and Ecuador, 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 Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by

which the foreign market value of the merchandise subject to this investigation exceeds United States price as shown in the table below. The following is a list of all the final margins, including the amended final margins, in these investigations.

Manufacturer/Producer/Exporter	Margin percent
<b>Colombia</b>	
Flores Mocari S.A. (and its related farms Cultivos Miramonte and Devor Colombia) .....	2.86
Rosex (and its related farms Rosex Ltda. La Esquina and Paraiso Farms), Induflores Ltda., and Rosas Sausalito Ltda.) .....	2.44
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.) .....	0.00
Grupo Bojaca (and its related farms Agricola Bojaca Ltda., Universal Flowers, and Plantas y Flores Tropicales Ltda. (Tropifora)) ...	20.66
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) .....	15.07
Grupo Intercontinental (and its related farms Flora Intercontinental and Flores Aguablanca) .....	3.92
All Others .....	5.53
<b>Ecuador</b>	
Arbusta-Agritab (and its related farms Agrisabe, Agritab, and Flaris) .....	4.01
Guanguilqui Agro Industrial S.A. (and its related farm Indipasisa) .....	14.29
All Others .....	5.41

These amended final determinations are published in accordance with section 751(f) of the Act and 19 CFR 353.28(c).

Dated: March 3, 1995.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

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[C-549-811]

**Final Negative Countervailing Duty Determination: Disposable Pocket Lighters From Thailand**

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

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Graham, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4105.

*Final Determination.* The Department of Commerce ("the Department") determines that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Thailand of disposable pocket lighters.

**Case History**

Since the publication of the preliminary determination in the **Federal Register**, 59 FR 40525 (August 9, 1994), the following events have occurred.

On September 13, 1994, at petitioner's request, we extended the final determination in this investigation to coincide with the final determination in the companion antidumping investigation (59 FR 46961).

On November 3, 1994, respondents requested that the Department postpone the final antidumping and countervailing duty determinations. Therefore, on November 16, 1994, the Department published in the **Federal Register** a notice postponing the final antidumping and countervailing duty determinations until no later than March 8, 1995 (59 FR 59211).

We conducted verification of the responses submitted on behalf of the Government of Thailand (GOT) and Thai Merry Co., Ltd. (Thai Merry) from October 17-18, and on October 28, 1994, respectively. We received case briefs on February 23, 1995, from petitioner and respondent, and received a rebuttal brief from respondent on March 1, 1995.

**Scope of Investigation**

The products covered by this investigation are disposable pocket lighters, whether or not refillable, whose fuel is butane, isobutane, propane, or other liquified hydrocarbon, or a mixture containing any of these, whose

vapor pressure at 75 degrees fahrenheit (24 degrees Celsius) exceeds a gauge pressure of 15 pounds per square inch. Non-refillable pocket lighters are imported under subheading 9613.10.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Refillable, disposable pocket lighters would be imported under subheading 9613.220.0000. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

**Applicable Statute and Regulations**

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

References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), which were withdrawn on January 3, 1995 (60 FR 80), are provided solely for further explanation of the Department's CVD practice. The subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act.

**Injury Test**

Although Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff