

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[Order No. 737]

**Peavey Electronics Corp.; AL**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority for Subzone Status,  
Peavey Electronics Corporation (Electronic Audio and Acoustical Products), Foley, Alabama

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, for authority to establish special-purpose subzone status at the electronic audio and acoustical products manufacturing plant of the Peavey Electronics Corporation in Foley, Alabama, was filed by the Board on March 3, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 8-94, 59 FR 12892, 3-18-94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 82C) at the Peavey Electronics Corporation plant in Foley, Alabama, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of April 1995.

**Susan G. Esserman,**

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 95-9406 Filed 4-14-95; 8:45 am]

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**International Trade Administration**

[A-201-601]

**Fresh Cut Flowers From Mexico; Preliminary Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request by the Floral Trade Council (petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers four producers/exporters, Rancho El Aguaje (Aguaje), Rancho Guacatay (Guacatay), Rancho El Toro (Toro), and Visaflor S. de P.R. (Visaflor), and entries of the subject merchandise into the United States during the period April 1, 1991, through March 31, 1992. We have preliminarily determined that dumping margins exist for three of these producers. The Department based these margins on the best information available (BIA). The fourth company, Visaflor, made no shipments during the period of review (POR).

Interested parties are invited to comment on these preliminary results. **EFFECTIVE DATE:** April 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4733.

**SUPPLEMENTARY INFORMATION:****Background**

On April 8, 1992, the Department published in the **Federal Register** (57 FR 11935) a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on fresh cut flowers from Mexico (52 FR 13491,

April 23, 1987). In accordance with 19 CFR 353.22(a)(1), the petitioner requested an administrative review for Aguaje, Guacatay, Toro, and Visaflor. On May 22, 1993, the Department published a notice of initiation of this review (51 FR 21769) covering the period April 1, 1991, through March 31, 1992. Visaflor stated that it did not ship subject merchandise from Mexico to the United States during the POR. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Because the Department determined during the prior administrative review that Guacatay had made sales in the home market below the cost of production (COP), we initiated a COP investigation with respect to Guacatay on October 10, 1992.

**Scope of the Review**

The products covered by this review are certain fresh cut flowers, defined as standard carnations, standard chrysanthemums, and pompon chrysanthemums. During the POR, such merchandise was classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) item numbers 0603.10.7010 (pompon chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive as to the scope of the order.

This review covers sales of the subject merchandise manufactured by Aguaje, Guacatay, Toro, and Visaflor, and entered into the United States during the period April 1, 1991, through March 31, 1992.

**Best Information Available**

The Department has determined that the data submitted by Aguaje, Toro, and Guacatay are unusable for the following reasons. The original questionnaire responses they submitted included unaudited, "in-house" financial statements. The respondents reported that they were not legally obligated to file income tax returns on sales made during the POR. In response to a supplemental questionnaire sent to all three companies, the respondents indicated that they were, in fact, obligated to file income tax returns covering the POR because of a change in Mexican law.

In an additional supplemental questionnaire, the Department asked the respondents to submit copies of these tax returns, and to reconcile them to the unaudited "in-house" financial

statements previously submitted to the Department. Toro and Guacatay submitted copies of their income tax returns; however, they failed to reconcile them with their unaudited financial statements. The remaining respondent, Aguaje, claimed it could not substantiate or reconcile the cost data contained in its unaudited financial statement because it had not filed its income tax returns for the POR, as required by the Mexican government. Although Aguaje claimed that it had not filed its returns, it provided no evidence to demonstrate that it was exempt from filing.

The Department relies on the accounting system used in the preparation of the audited financial statements to ensure that a company's submitted sales and cost data are credible. An "in-house" system which has not been audited, and is not used for tax purposes or for any purpose other than internal deliberations of the company, does not assure the Department that costs have been stated in accordance with generally accepted accounting principles, or that all sales and costs have been appropriately captured by the "in-house" system. (See Final Determination at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products and Certain Cut-To-Length Carbon Steel Plate from Korea, 58 FR 37186 (July 9, 1993).)

For prior review periods, respondents were not required under Mexican law to maintain audited financial statements or file tax returns. We accepted respondents' unaudited "in-house" statements in prior reviews because they did not have, and therefore could not submit, official corroboration of their internal records. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 59622-23 (June 28, 1991).) However, Mexican law governing income tax reporting changed in 1991, and the respondents were required to have filed tax returns covering the POR. Because respondents made inconsistent statements regarding their obligation to file taxes, and further, failed to reconcile their financial statements to their tax records as requested by the Department, we rejected respondents' data in their entirety.

For the reasons stated above, the Department determines that Aguaje, Guacatay, and Toro are uncooperative respondents. As a result, in accordance with section 776(c) of the Act, we have determined that the use of BIA is appropriate. Whenever, as here, a company refuses to cooperate with the Department, or otherwise significantly

impedes an antidumping proceeding, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or in prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise. (See Antifriction Bearings from France, et al.; Final Results of Review, 58 FR 39729 (July 26, 1993).) As BIA, we assigned the rate of 39.95 percent, which is the second highest rate found for any Mexican flower producer from both the prior reviews and the LTFV investigation. We have selected this rate because the highest rate found for any Mexican flower producer in prior reviews and the LTFV investigation, 264.43 percent, is an aberrational rate not representative of the market. This rate was due to a company's extraordinarily high business expenses during the review period resulting from investment activities which were uncharacteristic of the other reviewed companies. Therefore, we found it inappropriate to use this rate as BIA, both in the prior review and in this review. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 29623 (June 28, 1991).) We preliminarily determine that the following dumping margins exist for the period April 1, 1991, through March 31, 1992:

Manufacturer/Exporter	Margin (per-cent)
Ranch el Aguaje .....	39.95
Rancho Guacatay .....	39.95
Rancho el Toro .....	39.95
Visaflor .....	10

<sup>1</sup>No shipments during the POR. Rate is from the last review in which Visaflor had shipments.

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the result of its analysis of issues raised in any such case briefs.

The following deposit requirements shall be effective for all shipments of the

subject merchandise that are entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 18.28 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: April 7, 1995.

**Susan G. Esserman,**  
Assistant Secretary for Import Administration.

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**North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review**

**AGENCY:** North American Free Trade Agreement, NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Completion of Panel Review of the final dumping