

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