

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.