

double-counts home market expenses as expenses incurred in the United States are already being used as a supposed proxy. Moreover, the expenses incurred in Panama relating to U.S. sales have nothing to do with the home market because the Panamanian selling agent is involved only with export sales.

Petitioner maintains that the home market is not a viable market in the ordinary course of trade with respect to export quality roses. Petitioner argues that the home market is a market for distress sales. Petitioner states that the Department should use third-country expenses and profits to calculate CV.

Petitioner argues that it is appropriate to add selling expenses on the same terms as the constructed value (*i.e.*, using annual average indirect selling expense). Petitioner further argues that if the Department relies on U.S. selling expenses to compute CV, all U.S. selling expenses, whether incurred in Ecuador, Panama, or in the United States should be included. Petitioner argues that it has been the Department's practice and upheld by the courts that all expenses incurred in selling merchandise in the United States should be deducted from ESP, regardless of whether the entity incurring the expenses was physically located in the United States.

DOC Position

We disagree with respondents and have used U.S. selling expenses as a surrogate (*see* Comment 9). We agree with petitioners that all expenses incurred in selling merchandise in the United States should be deducted from ESP, regardless of whether the entity incurring the expenses was physically located in the United States. Further, we disagree that modification of our standard ESP offset methodology is warranted in this case.

Comment 45

Petitioner asserts that the verification report indicates that common indirect selling expenses were allocated to three Panamanian companies which were involved with the sale of roses. However, petitioner argues that the verification report indicates that certain selling expenses were not allocated to the company involved in the sale of respondent's roses. Petitioner contends that all indirect selling expenses should be reallocated.

Respondent asserts that it allocated its indirect selling expenses among all three of the Panamanian companies based on the relative sales revenue of each company. Respondent argues that the allocation is clearly supported in the verification report.

DOC Position

We agree with respondent. We verified that all selling expenses were reported and allocated appropriately.

Comment 46

Petitioner asserts that the sales verification report indicates that respondent understated its per-unit indirect selling expenses incurred in Ecuador because it allocated its expenses over sales to two related companies. Petitioner argues that, because the Department is unable to segregate respondent's third country sales from third country sales of its two related companies, all third country sales should be excluded from the denominator for purposes of calculating an indirect selling expense factor. Petitioner also contends that respondent has not previously alleged that it performed all export selling functions for all three companies and that it is too late for such an allegation. Petitioner argues that respondent's case brief on this topic is purely post hoc. Therefore, petitioner maintains that the Department should allocate respondent's export selling expenses solely to respondent's export sales.

Respondent contends that the verification report is incorrect with regard to its assertion that respondent understated its farm-level U.S. indirect selling expenses. The verification report states that respondent should have used the export sales revenue specific to respondent, not the sales revenue of its two related companies in the denominator of the ratio used to allocate farm-level selling expenses to roses. However, respondent argues that the total indirect expenses incurred by the above-three companies were incurred in respondent's central office. Respondent maintains that it was not possible to isolate farm- or product-specific selling expenses from the total selling expenses incurred at the central office. Respondent further maintains that the central office provides selling support functions for all products sold by all entities in the Group. Therefore, respondent calculated the ratio used to determine the portion of total selling expenses allocable to roses by including revenue from sales of all products from all three companies in the ratio's denominator. Respondent contends that if it had only used sales revenue from the products sold by respondent, it would have overstated, not understated, the amount of the total selling expenses allocable to roses. Respondent argues, therefore, that the Department should accept respondent's verified data for the final determination.

DOC Position

We agree with respondent and have used respondent's allocation methodology and the verified information for purposes of the final determination. *See e.g., Minivans.*

Comment 47

Petitioner argues that respondent incorrectly excluded all selling expenses allocable to Sunburst New York. Petitioner contends that there is no evidence on the record that supports respondent's claim that Sunburst New York's selling expenses should be excluded because it only handled imports from the Netherlands. Petitioner argues that the evidence on the record indicates that Sunburst New York charged Sunburst Miami for freight forwarding fees, which suggests that imports from Ecuador or Colombia, rather than Holland, were sold by Sunburst New York. Petitioner argues that absent evidence concerning purchases and sales by Sunburst New York, the record does not support exclusion of Sunburst New York's selling expenses.

Respondent maintains that Sunburst New York is a separate corporate entity, wholly-owned by Sunburst Farms Miami, which acts exclusively as an importer and freight forwarder of Dutch flowers. Sunburst New York does not make any sales of Dutch flowers, all such sales are made by Sunburst Farms Miami's Holland sales department. Respondent contends that the freight forwarding fees charged by Sunburst New York to Sunburst Farms Miami are intracompany fees to reimburse Sunburst New York for its freight forwarding operations and are, thus, unrelated to sales of subject merchandise.

DOC Position

We agree with respondent. At verification, we found that Sunburst Farms had a separate sales department that dealt solely with products imported from Holland. Therefore, we find that respondent appropriately excluded Sunburst New York's selling expenses from its allocation.

Comment 48

Petitioner argues that the Department should correct home market indirect selling expenses based on verification. Respondent did not address this issue.

DOC Position

We agree with petitioner. We corrected home market indirect selling expenses to reflect findings at verification. *See, e.g., Minivans.*