

accounts for perishability, and all United States sales both in and out of the ordinary course of trade are included in calculating USP.”

Respondent argues that its one zero-priced transaction should be excluded from the sales listing because providing a sample does not constitute a “sale” pursuant to 19 U.S.C. 1673. Respondent claims it had one shipment of sample roses for which it received no revenue whatsoever and that, by legal definition, a sale must include the exchange of money. Moreover, respondent claims the Department has the authority to exclude U.S. sales from a LTFV margin calculation if such sales are not representative of the sellers’ behavior and are so small in quantity and value that they would have an insignificant effect on the margin. *See Ipsco Inc. v. United States*, 714 F. Supp. 1211, 1217 (CIT 1989) (*rev’d on other grounds*, 965 F.2d 1056 (Fed. Cir. 1992) (*Ipsco*)). Respondent states that this one shipment meets the criteria set out in *Ipsco*.

DOC Position

We agree with respondent. We verified that all sales to one customer in July had been shipped as free samples. In accordance with our treatment of all sample sales in this case, we have deleted these observations from the sales listing. Therefore, the verification report states that U.S. (purchase price) observations 339 through 352 should be removed from the sales listing.

Comment 26

Petitioner states that export taxes are a direct selling expense, and are deductible from USP under 19 U.S.C. 1677a(d)(2). Accordingly, petitioner states that FONIN export taxes should be calculated for all U.S. sales and deducted in the sales listing. Petitioner agrees with respondent that the FONIN tax should not be included in G&A expenses and that such taxes must be deducted separately from U.S. price pursuant to 19 U.S.C. 1677a(d)(2). With respect to the basis for calculating the FONIN taxes, however, petitioner is unclear whether the computer sales listings contain the “reference value” declared to the Central Bank of Ecuador. In the absence of these values, petitioner claims there is no record basis for calculating the FONIN tax in a manner that will duplicate the actual tax paid. Petitioner argues that the Department should, therefore, apply the tax to the gross price as the best estimate of the amount paid.

Respondent claims that the Ecuadorian export tax, FONIN, was calculated as 0.5 percent of the

reference value declared to the Central Bank of Ecuador and shown on the export invoice. Respondent states that it reported FONIN taxes as part of administrative expenses in its CV tables and the amount of FONIN paid during the POI therefore should be deducted from its administrative expenses. Respondent included FONIN in its indirect selling expense calculation and since this expense is deducted from USP it must also be removed from indirect selling expense to avoid double counting.

DOC Position

We agree with petitioner and with respondent, in part. Section 772(d)(2)(B) of the Act specifically directs that export taxes be deducted from USP; therefore, we have deducted FONIN from USP and adjusted expenses accordingly to avoid double counting. We have calculated FONIN as a percentage of the gross unit price as was done in the preliminary determination.

Comment 27

Petitioner states that credit costs on PP sales should be amended to reflect the correct number of credit days as noted at verification.

DOC Position

We agree with petitioner. Consistent with our treatment of minor changes to submitted data, we have used verified data for respondent’s credit days (*see e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan*, 57 FR 21937, 21952 (May 26, 1992) (*Minivans*)).

Comment 28

Petitioner states that we should revise the quality credits incurred by respondent’s related importer in accordance with the verification report. In its rebuttal brief, petitioner states that it agrees with respondent that the Department should use the revised data received at verification concerning these expenses.

Respondent states that while it provided revised figures for U.S. quality credits, the revisions do not substantially affect previously submitted data. Thus, respondent claims the Department should accept its quality credit calculation as provided by it related importer at verification.

DOC Position

We agree with petitioner and respondent and have used the quality credits as verified. *See e.g., Minivans*.

Comment 29

Petitioner claims that verification of movement expenses on sales through respondent’s related importer established that the charges reported to the Department could not be supported by its records. Petitioner cites the sales verification report wherein the Department stated that, with regard to movement expenses, it found that respondent’s related importer both over-reported and under-reported certain of these expenses. Accordingly, petitioner states the Department should deny the claimed adjustments and instead apply BIA.

Petitioner argues that for each charge we should impute the highest per-unit amount claimed in any month to all sales. Petitioner notes that the determinations cited by respondent do not support the proposition that any changes identified by a respondent during verification should be made, so long as they are not extensive.

Respondent states that, while it provided revised figures for U.S. movement expenses, the revisions do not substantially affect previously submitted data. Thus, respondent claims the Department should accept its revised figures for movement expenses (brokerage and handling, air freight and inland freight) provided by it related importer at verification and which tied to its accounting system, even though these figures differed slightly from the amounts reported. Respondent argues that the use of the verified movement expenses in the Department’s final margin calculation would be consistent with the Department’s practice and precedent. Respondent cites the *Final Determination of Certain Steel Products from Italy*, 58 FR 37327 (July 9, 1993), wherein the Department used revised information provided by respondents at verification because it did not substantially amend previously submitted data.

DOC Position

We agree with respondent. We found that the verified movement expenses were not greatly different from the reported figures. Therefore, consistent with our treatment of minor discrepancies found at verification, we have used the verified movement expenses. *See e.g., Minivans*.

Comment 30

Petitioner states that we should increase indirect selling expenses incurred in Ecuador to include the full amount shown in respondent’s September 28, 1994, indirect selling expense exhibit. Petitioner notes that