margins by establishing a benchmark that no producer can meet.

In addition, respondents contend that using monthly average USP does not account for month-to-month volatility caused by the extreme seasonality of U.S. demand. Therefore, respondents maintain that monthly average U.S. prices are not representative for purposes of comparison with an annual CV and that only an annual average USP captures the full demand/production cycle, undistorted by seasonal factors.

Regarding petitioner's contention that the Department should not use a monthly USP in the *Roses* cases because, unlike flowers, roses have a shorter life, Floramerica points out that shelf life alone does not justify a departure from the Department's traditional averaging methodology and further, that there is information on the record which shows that roses do not have a shorter shelf life.

DOC Position

19 U.S.C. 1677f-1(b) and 19 353.59(b) provide the Department with the discretionary authority to use sampling or averaging in determining United States price, provided that the average is representative of the transactions under investigation. In these investigations, we determined, based on a combination of factors, to average U.S. sales. The Department was confronted with approximately 555,000 Colombian transactions which, when combined with the number of estimated U.S. sales transactions from Ecuador, exceeded one million. As a result, a decision to make fair value comparisons on a transaction-specific basis would place an onerous, perhaps even an impossible, burden on the Department in terms of data collection, verification, and analysis. Consequently, we exercised our discretion in order to reduce the administrative burden and maximize efficient use of our limited resources. Additionally, we recognize the need for consistency in our treatment of these concurrent investigations and, although the number of transactions may vary between the two countries, uniform application of an averaging methodology ensures that both Colombia and Ecuador will be treated on the same basis. See the June 24, 1994, Decision Memorandum pertaining to reporting requirements from Team to Barbara Stafford.

Moreover, we took into account that the majority of respondents, who make U.S. sales on consignment, have little, if any, ability to provide the level of detail which would have been required for the Department to do a transaction-specific analysis because unrelated consignees generally keep accounts for respondents' U.S. sales in monthly grower reports. Upon review of data submitted, and later verified, we concluded that a month was the shortest period of time which would permit all respondents to provide U.S. sales information on a uniform basis, thus ensuring that we treated all respondents in a similar manner in terms of data collection and analysis.

Importantly, because of the highly perishable nature of the product, we believe that monthly averaging of U.S. prices in these investigations provides a fair and more representative measure of value. Unlike nonperishable merchandise, respondent growers cannot withhold their roses from the market to await a better price. Rather, respondents are faced with the choice of accepting whatever return they can obtain on certain sales, so-called "endof-the-day" and "distress sales", or of destroying the product. Were we to perform a transaction-by-transaction comparison, such an approach, beyond the limits imposed on the Department as described above, would give undue and disproportionate weight to end-of-theday sales. Even where a respondent's normal sales were above fair value, he could be found to be dumping solely on the basis of sales made as a result of perishability. By adopting a monthly averaging period, we ensure that the entire range of distress and nondistress sale prices are covered.

Furthermore, while use of actual prices and transaction-by-transaction data is the norm, the statute allows for averaging provided such averaging yields representative results. We conclude that, in light of the above factors, using monthly averages of U.S. sales prices constitutes the shortest period necessary to capture a representative analysis of the ordinary trading practices in this industry. Our approach is consistent with the Department's past practice in investigations of fresh cut flowers as well as other perishable agricultural products. See Certain Fresh Cut Flowers From Colombia: Final Results of Antidumping Duty Administrative Review, 55 FR 20491 (May 17, 1990); Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers From Mexico, 52 FR 6361 (March 3, 1987). Furthermore, our approach has been upheld consistently by the court. See Floral Trade Council v. United States, 775 F. Supp. 1492, 1500-2 (CIT 1991); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1114 (CIT 1989).

Lastly, we are unpersuaded by two additional arguments proffered by petitioner to shorten the averaging period in these investigations. First, petitioner claims a factual distinction between the life-span of a rose and a fresh cut flower. However, we find that the record in these investigations establishes that from the time of importation, roses last approximately seven to ten days, while flowers last approximately ten to fourteen days and both may be held for more than one week in refrigerated coolers. Thus, we find this to be a distinction without a difference. Second, petitioner argues that, by not using a shorter averaging period, dumping during peak holiday periods such as at Valentine's Day, will elude the Department. According to petitioner, sales of roses imported before this holiday, but which are sold after the holiday when demand is quite low, will be sales at dumped prices. The petitioner does not consider such dumped sales legitimately within the category of end-of-the-day sales, for which our averaging period is designed to fairly account. Rather, petitioner argues that by averaging these lowpriced sales with high-priced holiday sales for the month of February dumping will be understated. While we recognize that using a monthly averaging period could result in some offsetting of high-priced sales with lowpriced sales, we believe that overall, monthly averaging is representative of the transactions under investigation. Moreover, in verifying numerous companies' February grower reports we found that only an insignificant number of roses were imported in February after Valentine's Day, as compared to the overwhelming volume imported during the first 13 days of the month, thus ameliorating this circumstance.

Annual Averaging

While we recognize that averaging is necessary in these investigations, we believe that averaging U.S. sales prices over a year is inappropriate. As we stated in *Flowers*,

nothing in the statute, the legislative history, or the Department's practice (including *Final Determination of Sales of Not Less Than Fair Value: Fresh Winter Vegetables from Mexico* (45 FR 20512; March 24, 1980) supports the broad notion of annual averaged U.S. prices. Annual averaging would extend too much credit to respondents by allowing them to dump for entire months when demand is sluggish, so long as they recoup their losses during months of high demand.

See Final Results of Antidumping Administrative Review and Revocation in Part of the Antidumping Duty Order: Certain Fresh Cut Flowers from