determine that the sales through one of the respondent's unrelated U.S. customers during the POI were insignificant in volume. Therefore, we excluded these sales from our margin calculation.

#### Comment 30

Respondent argues that in calculating U.S. indirect selling expenses, the Department should include the value of local Miami sales in the denominator of the equation. It claims that it inadvertently excluded local sales in the value of sales used to calculate the percentage applied to gross unit price. It adds that in accordance with the Department's instructions, however, all U.S. sales, including local sales, have been included in the U.S. sales listing.

The petitioner provided no comments on this issue.

### **DOC Position**

We agree with the respondent. While selling expenses associated with local sales may not be as great as those associated with sales in the normal course of trade in the market, they are nonetheless actual selling expenses that were incurred and examined at verification. Therefore, we have included the value of local Miami sales in the denominator of the U.S. indirect selling expense calculation.

## Comment 31

Petitioner argues that the costs associated with the freeze which occurred on December 31, 1993, the last day of the POI, were ordinary expenses and should not be deferred solely for the antidumping investigation. Petitioner further claims that the freeze was not unusual in the industry and that the company treated the cost associated with the freeze as a current year expense in its tax return.

Respondent argues that the freeze, which destroyed a number of rose plants, was an extraordinary event. Respondent notes that the damaged plants were not scheduled to produce roses until the following year. Finally, respondent argues that under Colombian tax law it is permissible to write off a loss at the time of the event, despite the fact that the actual loss related to future income.

# DOC Position

We believe that the costs resulting from the freeze do not relate to the production and sale of roses during the POI. Instead, given the date on which the freeze occurred and the fact that the lost and damaged plants had not yet begun to produce roses, we have determined that these costs should be recognized in a future period.

## Flores la Fragancia

### Comment 32

The petitioner maintains that there is no evidence that the respondent's breeder customers purchase merchandise that is different from the type of export quality rose which it sells to its retailer customers. In addition, the petitioner maintains that sales to breeders are made "for home consumption" and should be included in the Department's analysis. Alternatively, the petitioner argues that the respondent's sales to breeders do not constitute a distinct and separate level of trade because the respondent has not demonstrated that breeders' functions are different from the functions of any other type of purchaser as outlined in the Notice of Preliminary Determination: Disposable Pocket Lighters from Thailand 59 FR 53414 (October 24, 1994). Finally, the petitioner alleges that, even though the respondent is now requesting that the Department exclude sales to breeders in its final analysis, the respondent initially relied on the breeder sales made in the home market in order to avoid the need to report third country sales.

The respondent maintains that the Department should exclude sales to breeders because breeders are end users that are concerned only with whether the rose has a sprouting eye and not whether the rose is export quality or a cull. In other words, the breeder is not buying the rose, rather the plant material that is harvested with the rose. Alternatively, respondent maintains that, if the Department insists on using sales to breeders in its analysis, it should treat breeders as a distinct level of trade and not as retailers since breeders do not resell the roses purchased from it.

## **DOC Position**

We agree in part with the respondent. We examined invoices at verification which demonstrated that breeders purchase both export quality roses and culls from the respondent. We see no reason to distinguish whether the export quality rose does or does not have a sprouting eye because the rose is still considered subject merchandise. In this case, sales to breeders must be considered as a home market sale of subject merchandise when they are sales of export quality roses. Therefore, we have used sales to breeders in our COP test. Since all home market sales are below cost, we are comparing all U.S.

sales to CV. Therefore, the issue of whether breeders constitute a different level of trade is moot.

Finally, since the respondent correctly reported such sales in its home market sales database, we find that the petitioner's argument that the respondent tried to avoid reporting third country sales is not supported by the evidence on the record.

## Comment 33

The respondent maintains that all sales included in the customer category labelled "sales to individuals" were made to individuals closely associated with the respondent (e.g., mostly employees and relatives of the owners, the remainder being friends of the owners). Therefore, the respondent requests that the Department exclude all sales included in the customer category from our analysis. Finally, the respondent states that excluding these sales would be consistent with our decision to exclude other respondents' sales to employees from the analysis in the preliminary determination.

The petitioner did not provide comments on this issue.

#### **DOC Position**

We agree with the respondent. We determined at verification that the vast majority of customers included in the customer category "sales to individuals" were individuals related to the respondent. Documentation collected at verification demonstrates that the quantity and value of sales attributable to unrelated customers within the customer category is insignificant in terms of the total quantity and value amount reported under the customer category. Finally, we are comparing all U.S. sales to CV because, even including these home market sales, all sales are below COP. Therefore, we will not be using sales grouped under the category "sales to individuals" in our LTFV analysis.

# Comment 34

The petitioner contends that there is a large and unreconcilable discrepancy between the quantity shipped to and the quantity received by the respondent's U.S. subsidiary during certain POI months. The petitioner maintains that as a result of the difference between what export documentation shows the respondent shipped to the United States and what sales documentation shows the U.S. subsidiary sold during the POI, the respondent did not report a significant portion of its U.S. sales of subject merchandise. Therefore, the Department should find the