

specific, monthly U.S. prices to identical product-specific, monthly FMV prices. Respondents note that where FMV is not available, CV should be used. However, the profit element should be monthly FMV profit, not annual FMV profit. In addition, respondents argue that average CV of all products combined must be compared to U.S. prices of non-matched products.

Petitioner argues that product averaging should not be used to obliterate differences in prices due to physical differences in roses. Petitioner stresses that it is particularly important that the prices of the low-priced Visa roses are not averaged together with prices of other red roses. Petitioner maintains that an average across varieties, colors, or stem lengths substantially distorts the market reality.

#### DOC Position

We agree with respondents that averaging by flower type is appropriate in this investigation. Consistent with *Flowers*, where possible, we compared USP and CV on a rose type basis, *i.e.*, hybrid tea, sweetheart, etc. See, *e.g.*, *Fresh Cut Flowers From Colombia*, 59 FR 15159, 15160-61 (March 31, 1994) (4th admin. review final). For a number of companies, however, we were unable to compare USP and CV on a rose type basis because the respondents do not keep their cost data in such a fashion. As a result, in order to ensure an "apples-to-apples" comparison, we aggregated U.S. price data to arrive at a weighted-average monthly USP for all rose types for comparison with respondents' single average CV for all rose types. While it would have been preferable to disaggregate rose costs for these respondents in order to make a fair value comparison on a rose type basis, we were not able to do so in this investigation because the data were not available and we did not present respondents with a methodology for disaggregating costs. However, we intend to do so in any future administrative reviews if an order is issued. We will seek to devise a method to enable us to compute cost by rose type, which will not require respondents to change their method of recordkeeping.

#### Comments Pertaining to Third Country

##### *Comment 6: Third Country as Basis for FMV*

Petitioner maintains that there is no basis in law for rejecting third country prices that are adequate to establish a viable market. In addition, petitioner states that the Department's regulations state a preference for the use of third

country prices, where the home market is not viable. Petitioner maintains that the statute prescribes adjustments for differences in circumstances of sale, which can take account of differences in markets, but it does not permit the Department to simply reject a viable market, due to factors other than dissimilar merchandise, for the purposes of determining FMV.

Petitioner claims that there is no evidence on the record to establish that third country prices are incompatible for comparison to U.S. prices. Petitioner questions the validity of respondents' statistical studies, claiming that the statistical analyses provided by Drs. Botero and Sykes and Lewis are unworthy of consideration because they exclude the impact of dumping in their price analyses. According to petitioner, if the Colombian and Ecuadorian growers are dumping during the several off-peak (non-holiday) months in the U.S. market, but not in other markets, such dumping would produce price changes in the U.S. market that are much sharper and greater than the price changes in Europe, thereby causing the greater volatility in the U.S. market identified by respondents. Petitioner adds that, because the Colombian and Ecuadorian imports constitute such a large percentage of the U.S. market and because they sell through consignment agents on a national basis, the supply of Colombian and Ecuadorian roses uniformly depresses U.S. prices whenever those imports oversupply the U.S. market.

Petitioner argues that the Botero and Sykes and Lewis reports are further skewed because they use the prices of a single variety of red rose, the Visa, which it asserts is the most price sensitive. Moreover, these reports did not provide source documentation showing the composition of the Dutch auction prices relied upon. Thus, it is unclear how many varieties of roses were included in the comparison database. In addition, since Colombian and Ecuadorian roses sold on the Aalsmeer auction account for only a very small portion of all roses exported to the EU, Aalsmeer prices may not be representative of Colombian and Ecuadorian rose prices in the EU.

Petitioner argues that the statements provided in the Hortimarc Report based on FTD data, which included traditional retail florists and excluded non-traditional outlets such as supermarkets, and mass merchandisers, ignores a significant number of spontaneous purchases from their analysis.

Petitioner states that the Stern & Wechsler argument regarding the opposing demand strains of the U.S. and

EU market are irrelevant to the comparison of foreign market values and U.S. prices. Petitioner maintains that the U.S. market is as supply driven as any other market during non-holiday months.

Petitioner recognizes that in the second administrative review of *Fresh Cut Flowers From Colombia*, (55 FR 20491, May 17, 1990) (*Flowers*), the Department departed from its normal practice and rejected third country prices in favor of CV for the following three reasons: 1) third country and U.S. price and volume movements were not positively correlated which showed that different forces operated in the relevant markets, in some instances, pushing prices in opposite directions; 2) third country sales only occurred in peak months which resulted in a distorted comparison of off-peak U.S. prices to peak third country prices; and 3) the perishable nature of flowers and the inability to control short-term production resulted in "chance" sales.

Petitioner argues that the Department's analysis of statistical data on the record in these investigations confirmed a positive correlation in prices, thus refuting the principal finding of the *Flowers* case. In fact, petitioner argues that the basis for creating an exception to the statutory preference for price-to-price comparisons was the presence of a negative correlation. Regarding volatility, petitioner notes that in *Flowers*, the Department never required that prices be equally volatile in each market; volatility alone does not require the Department to reject a price-to-price comparison. In fact, petitioner argues that in *Flowers* the Department found differences in volatility between the U.S. and European markets and price movement in opposite directions in each market.

Regarding the second factor, petitioner observes that, unlike the *Flowers* case, third country sales of roses even occur in off-peak months and argues that the Department's six-month weighted average FMVs take into account seasonal peaks and off-peaks. Moreover, petitioner maintains that major flower buying holidays are the same in all markets and, therefore, peaks will occur at similar times in all markets.

Finally, with regard to the issue of perishability and production control, petitioner maintains that respondents may control production by pinching back rose buds. In addition, petitioner notes that there is evidence on the record indicating that third country sales of roses are stable, some occurring as a result of negotiated standing orders