and, therefore, there is a lesser incidence of chance sales then was present in *Flowers*. Petitioner contends that statements by respondents regarding a potential shift of exports from third country markets to U.S. markets reveals the extent to which respondents, in fact, control, plan, and target their rose exports to certain markets.

Respondents claim that third country prices should be rejected in favor of CV because the three factors found in *Flowers* are present in these cases. With regard to the first *Flowers* factor, respondents quote empirical evidence on the record showing substantial differences in demand and pricing seasonality between U.S. and third country markets. Respondents argue that there are two principal aspects of seasonality: timing (*i.e.*, the point in time at which demand peaks and valleys occur in seasonal cycles) and volatility (*i.e.*, the magnitude of peaks and valleys). Respondents argue that, in *Flowers*, the Department relied on both differences in timing and in volatility to explain why it rejected third country prices. Respondents assert that in the rose industry, as in the flower industry, (1) the U.S. market is holiday-demand driven; (2) U.S. demand is not a stable consumption base because the majority of roses are purchased primarily as gifts; and (3) the U.S. market is demand driven. In contrast, respondents state that (1) the European market is marked by relatively even year-round demand; (2) flower purchasing on a more regular basis (not tied to gift giving) is a deep rooted tradition in Europe; and (3) the European market is supply driven.

Respondents have submitted several statistical analyses of the different markets which, they claim, conclusively show that the seasonal demand and pricing patterns are significantly different between the markets. Respondents point to the second Botero report and the Sykes & Lewis report which states that the mere presence of a price correlation is insufficient proof that demand patterns are equivalent. Respondents contend that while petitioner criticizes their statistical analysis, petitioner has not provided any independent correlation analysis regarding U.S. and third country prices.

With regard to the second *Flowers* factor, access to third country markets, respondents claim that petitioner's own data rebut the contention that respondents have substantial continuous access to third country markets because there are no Colombian and Ecuadorian imports of roses in at least one month for every country for which petitioner has provided data. Respondents assert that petitioner's claim that Colombian and Ecuadorian production is planned with third countries in mind, and that roses are sold at the same fixed price over a period of time as a result of a pre-negotiated arrangement, is a misunderstanding of the facts on the record.

In addition, respondents claim that combining third country markets would not rectify the gaps created by the absence of sales in all months in individual markets. Respondents note that adding two markets with partial year sales is still tantamount to using only peak prices for foreign market value. With regard to the third *Flowers* factor, respondents claim the control and perishability factor relied upon by the Department in the *Flowers* case is equally applicable to roses. Respondents cite to portions of the Department's *Roses* preliminary determination where the Department noted that there are substantial similarities between flowers and roses in perishability and short-term lack of production control. Respondents also cite to the first Tayama report which states that roses are even more perishable than fresh cut flowers.

Respondents claim that petitioner oversimplifies their argument regarding seasonality by neglecting to view all aspects of the *Flowers* exception: the unique combination of differences in seasonality between U.S. and third country markets for a highly perishable product for which production cannot be controlled in the short term. Thus, respondents maintain that the *Roses* case is a logical extension of the *Flowers* case.

DOC Position

The Department agrees with respondents. In the preliminary determination, we rejected respondents' request to use CV as the basis for FMV because we determined that the record at that time did not support the application of the *Flowers'* precedent. Since the preliminary determination, a considerable amount of new information has been submitted. Based on our review of this new information, we have determined that the records in these cases warrant rejection of third country sales in favor of CV. *See* the January 26, 1995, Decision Memorandum pertaining to third country versus constructed value from the Team to Barbara Stafford for a more detailed discussion of this issue.

Information on the record establishes that the three factors identified by the Department in *Flowers* as supporting the use of CV are satisfied in this case. First, the market for roses in the U.S. differs significantly from the markets in third countries. For example, as in *Flowers*, price and quantity within the United States' rose market are positively correlated; however, the price and quantity within Europe, Canada, and Argentina are negatively correlated.

Similarly, the U.S. market for roses, like the U.S. market for flowers, is more volatile in terms of price and quantity movements than the markets in third countries markets; the European per capita consumption of flowers is four to ten times greater than the United States, and Colombian and Ecuadorian producers have, in general, limited access to the main third country markets, *i.e.*, the Dutch auction. Thus, the differences in the rose markets are similar to the differences that existed in *Flowers*.

The second *Flowers* factor we considered was whether a comparison of third country sales to U.S. sales would require comparisons of low-price U.S. sales in off-peak months with high-price third country sales in peak months, or vice versa. In the preliminary determination, we found that this factor was not present in these investigations because (1) there were sufficient third country sales in each month of the POI (when markets were combined); and, (2) using two six-month FMV periods reduced distortion caused by price comparisons involving peak and non-peak periods.

For purposes of this final determination, we have determined that use of third country prices could result in off-peak U.S. sales being compared with peak third country sales. While six-month averages ameliorate potential distortions, almost all of the respondents do not have third country sales in every month of the POI. It is only by combining markets that respondents have sales in each month of the POI. If we were to use third country prices as the basis for FMV, prices during peak periods in one third country could be combined with prices during peak periods in another third country. These peak prices would then be compared to both peak and non-peak periods in the United States. We find that this factor supports use of CV in these cases, albeit to a somewhat lesser degree than in *Flowers*.

The third *Flowers* factor we considered was the extreme perishability of roses—*i.e.*, the inability to control short-term production—and the resultant ''chance'' element to sales. As noted in our preliminary determinations, there are substantial similarities between the subject merchandise in these investigations and