

# **COMPETITIVE CONDITIONS IN THE U.S. AND WORLD MARKETS FOR FRESH CUT ROSES**

Report to Congress on  
Investigation No. 332-263  
Under Section 332(g)  
of the Tariff Act of 1930  
as Amended

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Washington, DC 20436**



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## PREFACE

On October 21, 1988, the United States International Trade Commission instituted investigation No. 332-263, Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses. The investigation was instituted as required by section 4509 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, 102 Stat. 1107)<sup>1</sup> (the act) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of reporting on—

1. The competitive factors affecting the domestic rose-growing industry, including competition from imports;
2. The effect that the European Community's tariff rate for imported roses has on world trade of roses; and
3. The extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

The act requires that the Commission report the results of its investigation within 240 days of enactment of the provision or by April 20, 1989.

Notice of the investigation and scheduling of a public hearing were given by posting copies of the notice of investigation at the Office of the Secretary, U.S. International Trade Commission, Washington, DC and by publishing the notice in the *Federal Register* (53 F.R. 43277, Oct. 26, 1988).<sup>2</sup>

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<sup>1</sup> A copy of the pertinent sections of the act is reproduced in app. A.

<sup>2</sup> A copy of the Commission's Notice of Investigation is provided in app. B.



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## Executive Summary

Fresh cut roses are the most important cut flower crop produced by the U.S. floriculture industry. In 1987, the last year for which data are available, fresh cut rose production had a wholesale value of \$167.2 million, as reported by the U.S. Department of Agriculture. In that same year, U.S. imports were valued at \$48.2 million, and U.S. exports were estimated at \$1.3 million (see table A).

The Omnibus Trade and Competitiveness Act of 1988 requires that the Commission investigate and report on (1) the significant factors that are currently affecting the competitiveness of the U.S. rose-growing industry, (2) the effect of the European Community's tariff structure for fresh cut roses on world trade in roses, and (3) those foreign trade barriers and unfair trade practices that affect the ability of U.S. growers to compete in the world market for roses.

The principal aspects of each of these areas are highlighted below:

1. Current competitiveness of the U.S. industry in the U.S. market.

- *The U.S. industry is growing; however, it is accounting for a smaller share of a growing U.S. market.*

Domestic production of fresh cut roses increased from 476.5 million stems in 1985 to an estimated 521.9 million stems in 1988. Domestic production of sweetheart roses appears to have remained relatively stable over the period, whereas production of hybrid tea roses appears to have accounted for most of the growth. There appears to be no significant concentration of growers producing roses, although California does account for the largest number of growers and production.

The number of commercial growers of fresh cut roses has increased during the period 1985-87. The number of growers of hybrid tea roses increased from 243 to 251 growers in 1987, while the number of growers of sweetheart roses increased from 166 to 169 growers in 1987. The amount of square footage devoted to rose production increased by 13 percent from 1985 to 1987. Hours worked in rose production and wages paid to production and related workers rose by 6.6 percent and 18.7 percent, respectively, from 1985 to 1988.

However, the U.S. fresh cut rose industry has steadily lost market share to imported roses over the last decade. In 1985, imported roses accounted for 26.5 percent of U.S. apparent consumption of roses. By 1988, imports had increased their share by over 40 percent, accounting for 37.9 percent of apparent consumption.

- *The financial performance of the U.S. industry has declined slightly since 1985.*

Although total sales of fresh cut roses increased by 10 percent during 1985-88, total growing and operating expenses increased at a faster rate (11 percent). The major expense items in growing roses are labor; plants, fertilizers, and chemicals; and fuel and other utilities. The ratio of net income before income taxes to total sales rose from 4.6 percent in 1985 to a high of 5.6 percent in 1986, before declining to a low of 3.5 percent in 1988. Similarly, the ratio of net income before income taxes and officers' or partners' salaries to total sales declined to 9.5 percent in 1988, after rising from 9.8 percent in 1985 to a peak of 11.4 percent in 1987.

The number of firms reporting losses increased from 31 in 1985 and 1986 to 36 in 1988. Those firms reporting losses represented almost 38 percent of the growers that supplied usable financial data on their rose growing operations.

- *The comparative strengths of the U.S. industry in the U.S. market include the following characteristics: producing a quality product, delivery in a timely manner, and proximity to the market.*

Domestic roses enjoy certain qualitative advantages over most imported varieties. Domestic roses take up water better than the imported Visa variety and are less prone to bend or break at the neck. The domestic rose also has an advantage over certain South American varieties in that the flower head opens more widely, whereas the Visa rose generally remains closed. Some South American growers, however, are planting new varieties that may improve the quality of their export product.

**Table A**  
**Profile of U.S. fresh cut rose industry, 1985-88**

Item	1985	1986	1987	1988	Absolute change, 1988 from 1985	Percentage change, 1988 from 1985
<b>Production:</b>						
Sweetheart (1,000 stems) .....	106,237	107,475	108,065	( <sup>1</sup> )	<sup>2</sup> 4,828	<sup>2</sup> 5
Hybrid tea (1,000 stems) .....	370,313	354,702	406,796	( <sup>1</sup> )	<sup>2</sup> 36,483	<sup>2</sup> 10
Total (1,000 stems) .....	476,550	462,177	<sup>3</sup> 514,861	<sup>4</sup> 521,900	45,250	9
<b>Value of production:</b>						
Sweetheart (\$1,000) .....	25,978	26,166	26,028	( <sup>1</sup> )	<sup>2</sup> 50	<sup>2</sup> 0
Hybrid tea (\$1,000) .....	125,343	125,038	141,164	( <sup>1</sup> )	<sup>2</sup> 15,821	<sup>2</sup> 13
Total (\$1,000) .....	151,321	151,204	<sup>3</sup> 167,192	<sup>4</sup> 170,661	19,340	12
<b>Area in production:</b>						
Sweetheart (1,000 square feet) .....	5,533	5,413	5,521	( <sup>1</sup> )	<sup>2</sup> (12)	( <sup>2, 5</sup> )
Hybrid tea (1,000 square feet) .....	25,854	27,237	32,650	( <sup>1</sup> )	<sup>2</sup> 5,533	<sup>2</sup> 21
Total (1,000 square feet) .....	31,387	32,650	<sup>3</sup> 35,552	( <sup>1</sup> )	<sup>2</sup> 4,165	<sup>2</sup> 13
<b>Exports<sup>6</sup>:</b>						
All roses (\$1,000) .....	1,546	1,580	1,348	( <sup>1</sup> )	<sup>2</sup> (198)	<sup>2</sup> (13)
<b>Imports:</b>						
Sweetheart (\$1,000) .....	438	599	334	243	(195)	(45)
Hybrid tea (\$1,000) .....	41,942	45,832	47,835	62,513	20,571	49
Total (\$1,000) .....	42,375	46,431	48,168	62,755	20,380	48
<b>Trade balance:</b>						
All roses (\$1,000) .....	(40,829)	(44,851)	(46,820)	( <sup>1</sup> )	<sup>2</sup> (5,991)	<sup>2</sup> (15)
<b>Apparent consumption:</b>						
All roses (1,000 stems) .....	637,203	666,158	<sup>3</sup> 775,782	<sup>3</sup> 829,796	192,593	30
<b>Ratio of imports to apparent consumption:<sup>7</sup></b>						
All roses (percent) .....	26	32	34	38	( <sup>8</sup> )	( <sup>8</sup> )

<sup>1</sup> Not available.

<sup>2</sup> Absolute or percentage change, 1987 from 1985.

<sup>3</sup> Data reported for 1987 are not comparable to those reported in earlier years due to an expansion in the data base in 1987.

<sup>4</sup> Estimated by the staff of the U.S. International Trade Commission.

<sup>5</sup> Less than 0.5 percent.

<sup>6</sup> U.S. exports of fresh cut roses are not separately reported. Figures reflect Canadian imports of roses from the United States.

<sup>7</sup> In terms of quantity.

<sup>8</sup> Not applicable.

Note.—Due to rounding, figures may not add to the totals shown.

Domestic growers are better able to regulate the timing of their production to meet peak demand periods by the way they pinch the rose plants as well as regulate the temperature and the overall environment in the greenhouse. In comparison, some foreign growers, such as those in Colombia and several other Latin American countries, do not have the ability to control the greenhouse environment.

Eastern U.S. growers, and to a lesser extent growers in California and Colorado, are able to supply a majority of their customers' needs within 24 hours. This comparative advantage has allowed U.S. growers to deliver and command a premium for the freshness of their roses, with prices averaging 8 to 15 percent higher than those of imports. California growers and, to a lesser extent, Colorado growers are generally not able to compete on the basis of freshness in markets outside of their local area; instead, they must compete with foreign growers primarily on the basis of price.

- *The comparative strengths of the Colombian industry, the principal foreign competitor, include the following factors: the availability of abundant labor, a growing season that is ideal for production throughout the year, a pricing system that is advantageous to U.S. importers, and an efficient distribution system.*

Labor is a major cost item in the production of roses. Colombia has an abundance of low cost labor compared with the United States. Labor costs for rose production in Colombia are reported to average about \$5.00 to \$6.00 per day compared with U.S. labor costs of \$6.32 per hour in 1988, as reported in questionnaire responses by U.S. rose growers.



Colombia is situated in an ideal climate for the production of roses, and in particular, the Visa variety. Colombia has many clear, sunny days, with temperatures that are normally in the low 70's. Although these conditions are conducive to the efficient production of the Visa rose variety, the Visa variety requires a longer cycling time (the time required after a bloom has been cut from a stem and a new bloom has reached marketing size) than hybrid tea varieties produced in the United States. However, the Visa variety has a shorter cycling time in Colombia compared with most other hybrid tea varieties in Colombia because of its ability to produce at the cooler Colombian temperatures.

Most fresh cut rose imports from Colombia and other Latin American countries are sold on consignment in the United States. The roses, in other words, enter the U.S. market without an established price. The U.S. importer returns to the Latin American grower any money generated by the sale, less fees, duties, and commissions. The U.S. importer, therefore, assumes very little risk in the transaction. This type of system can result in the selling of such roses at prices below that which would be charged if the importer assumed ownership of the product.

Since the late 1970's, a very efficient transportation network has evolved for the movement of fresh cut roses and other cut flowers from the growing areas in Colombia to the major U.S. cut flower markets. Almost all imported fresh cut roses from Latin America enter through Miami, FL. Miami has developed handling facilities that allow for the efficient unloading, inspection, and forwarding of fresh cut roses, resulting in minimal delays. Once roses arrive in Miami, they can be easily distributed to major markets in the eastern United States, within 1 to 2 days by truck or the same day by air transport.

2. The effect of the European Community's tariff structure for fresh cut roses on world trade in roses.

- *World trade in fresh cut roses is significantly affected by the European Community's tariff structure for fresh cut roses.*

The European Community has in effect seasonal rates of duty on imports of fresh cut roses. The rate for the summer growing period (June 1-Oct. 31) is 24 percent ad valorem. The rate for the winter growing period (Nov. 1-May 31) is 17 percent ad valorem. The EC dual rate structure is designed to protect EC growers during the peak growing season when domestic supply is higher and demand is lower.

Imports of fresh cut roses into the European Community from nonmember sources during the 5-month summer growing season amounted to about 10 percent of total imports during the entire year of 1987 (the latest year for which monthly data are available). U.S. imports of fresh cut roses during the same 5-month period in 1987 amounted to about 35 percent of total U.S. imports for the entire year. An analysis of monthly EC imports of fresh cut roses during 1983-87 indicates a dramatic decrease in imports during the summer growing period compared with imports during the winter growing period. These import patterns, though not taking into account all factors affecting EC trade, indicate that the 7-percentage point difference in duty rates between the two periods has an impact on EC imports of fresh cut roses.

In addition to being relatively high in comparison with U.S. import duties on fresh cut roses, the European Community's import duties are levied on a c.i.f., or landed, value basis. Roses are generally shipped by air freight, thus increasing the landed value and the incidence of the duty.

An econometric analysis of the effect of the EC's tariff rate structure on world trade in fresh cut roses indicates that the EC's higher tariff during the summer growing season has significantly impeded the inflow of roses from non-EC member countries. EC imports during July, August, and September—the heart of the summer growing season—averaged about 2.5 million stems per month; however, the econometric model developed in this investigation shows that monthly EC imports would rise 128 percent, or by an additional 3.2 million stems per month during the summer growing season if the tariff rate for the summer growing season were lowered to the rate applicable for the remainder of the year (i.e., from 24 percent ad valorem to 17 percent ad valorem).

Several industry sources also gave testimony as to the effects of the EC tariff on world trade of roses. In addition, they cited several other factors which they believe can have a substantial impact on EC imports of fresh cut roses, including exchange rates, pricing practices, air freight rates, and product differences.

3. The extent to which unfair trade practices and foreign barriers to trade impede the marketing abroad of U.S. produced roses.

- *U.S. industry representatives have alleged that some foreign governments provide subsidies to producers of fresh cut roses and other flowers that impede the ability of U.S. producers to export their flowers to foreign markets.*

In the past, representatives of the U.S. flower- and rose-growing industries have alleged that some foreign producers are using government-subsidized programs to market their products abroad. Such programs include reduced loan rates, tax rebates, energy conservation inducements, and research grants. The U.S. Department of Commerce has determined that some of these programs constitute countervailable subsidies within the meaning of section 701 of the Trade Act of 1930, as amended; however, most of these programs have not been determined to involve fresh cut roses. Whereas these programs can be offset by U.S. countervailing duties on imports into the United States, other governments may or may not assess countervailing duties against these programs. Therefore, U.S. producers that are interested in exporting their roses may face competition from foreign producers that are benefiting from government-sponsored programs; these programs could impede the trade of U.S.-produced roses in foreign markets.

- *There are few nontariff barriers and other trade practices that appear to affect the trade of fresh cut roses.*

Examples of nontariff barriers and trade practices which affect trade in fresh cut roses are the phytosanitary regulations in Japan and the c.i.f. assessment practices in the EC and most other developed countries. These are not programs designed to promote the competitive position of one country's fresh cut rose industry over another; rather, they serve to protect the domestic industry from import competition, though this may not be the explicit purpose.

# Chapter 1

## Introduction

### General

The major objectives of this investigation are to (1) identify those competitive factors significantly affecting the U.S. rose-growing industry, and to assess the effects of such factors on the industry; (2) analyze the effect that the European Community's (EC) tariff structure for fresh cut roses has on world trade in roses; and (3) report on foreign trade practices and barriers that affect the ability of U.S. growers to compete in the world market for roses. This investigation was instituted on October 21, 1988, as required under section 4509<sup>1</sup> of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, 102 Stat. 1107) (the act). The investigation covers the growing, shipping, and marketing sectors of the U.S. industry.

### Product coverage

This study covers only fresh cut roses. Roses are members of the Rosaceae family; at least 100 species and thousands of varieties are known to exist. The three most commercially important types of these relatively expensive flowers are the sweethearts or miniatures, intermediates, and the hybrid teas. Sweetheart roses usually have a bud length of 1/2 to 1 inch and a stem length of 8 to 15 inches. Intermediates have a bud length of 1 to 1-1/2 inches and a stem length of 9 to 24 inches. Hybrid tea roses have a bud length 1-1/4 to 2 inches and a stem length of 12 to 30 inches. Roses may be white, pink, red, yellow, orange, lavender, or intermediate shades or tints. Cut roses are used in wreaths and bouquets for ceremonial occasions and for general decorative purposes. As fresh cut flowers, roses may last 3 to 7 days in the home, depending on the variety and environmental factors such as temperature and care, without the use of a floral preservative. The vase life of a rose can be doubled when floral preservatives are used.

### Study time frame

In most instances, the period covered by this study extends from January 1985 through December 1988. The period represents a time during which the domestic rose-growing industry has experienced a decline in market share and profitability, with an accompanying rise in domestic production and imports.

<sup>1</sup> A copy of sec. 4509 of the act is reproduced in app. A.

### Data sources

The investigation of fresh cut roses and their markets was carried out through the combined analysis of information from published sources and staff interviews with company representatives, Government agency officials, and academic researchers. Data obtained from Commission questionnaires on growing, shipping, and importing operations for fresh cut roses were also used. The Commission also held a public hearing in conjunction with the investigation in which interested parties were given an opportunity to present information.

### The concept of competitiveness

In this study competitiveness means the success and strength of the national or regional industry, relative to its rivals. In general, an industry is more competitive the more it is willing to supply to the market under existing demand conditions, holding unchanged the willingness of its competitors to supply the market. For instance, if an industry consists of many price-taking firms producing undifferentiated products, an industry's competitiveness is greater the more it is willing to supply at the prevailing price, other factors remaining the same.

The competitiveness of an industry is determined by any factors that affect industry production under given demand conditions. Factors that increase U.S. production or decrease foreign production make the U.S. industry more competitive. Decreases in domestic marginal production costs relative to those of competitors, at current production levels, result in greater U.S. competitiveness. Relative domestic cost decreases may, in turn, result from depreciation of the dollar, government policies that effectively subsidize U.S. industries or tax foreign industries, or decreases in demand for products that could be produced with the same resources that are used in the industry in question.<sup>2</sup> Both levels of and changes in market share might indicate competitiveness. Similarly, extraordinary profitability indicates competitiveness since it suggests incentives for growth that will lead to expanding market share.

### Prior Investigation History

The Commission has conducted several investigations with respect to fresh cut roses specifically and also with respect to fresh cut flowers in general. On the basis of a petition filed on behalf of the Grower Division of the Society of American Florists and Ornamental Horticulturists, the Commission instituted, effective

<sup>2</sup> For a more complete listing of the causes of domestic cost decreases, see A. Michael Spence and Heather A. Hazard, *International Competitiveness*, Ballinger Publishing Co.: Cambridge, Mass., 1988, pp. 1-1 xxii-xxiii.

February 12, 1977, investigation No. TA-201-22 under section 201 of the Trade Act of 1974 to determine whether fresh cut flowers (including roses), were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to a domestic industry. In August 1977, the Commission made a negative determination in that investigation.<sup>1</sup> That investigation was followed by investigation No. TA-201-42, relating only to fresh cut roses, which was instituted effective November 29, 1979, as a result of a petition filed on behalf of Roses, Inc. In April 1980, the Commission unanimously determined that fresh cut roses were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing the like or directly competitive articles.<sup>2</sup>

On January 3, 1980, a petition was filed on behalf of Roses, Inc., alleging that imports of fresh cut roses from the Netherlands were being subsidized by the Government of that country. Effective January 11, 1980, the Commission instituted investigation No. 701-TA-21 (Preliminary) to determine whether there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury, or whether the establishment of an industry in the United States was materially retarded, by reason of the allegedly subsidized imports of fresh cut roses from the Netherlands. In February 1980, the Commission unanimously determined, on the basis of the record developed in the investigation, that there was no reasonable indication of material injury or threat of material injury to a domestic industry by reason of the allegedly subsidized imports of fresh cut roses from the Netherlands.<sup>3</sup>

Effective June 8, 1981, the Commission instituted an antidumping investigation (No. 731-TA-43 (Preliminary)) with respect to fresh cut roses from Colombia. However, the Commission's investigation was terminated when the U.S. Department of Commerce (Commerce), the administering authority, dismissed the petition on June 25, 1981.

<sup>1</sup> *Fresh Cut Flowers, Report to the President on Investigation No. TA-201-22 Under Section 201 of the Trade Act of 1974*, USITC Publication 827, August 1977.

<sup>2</sup> *Fresh Cut Roses, Determination of the Commission in Investigation No. TA-201-42, Together with the Information Obtained in the Investigation*, USITC Publication 1059, April 1980.

<sup>3</sup> *Fresh Cut Roses from the Netherlands: Determination of No Reasonable Indication of Material Injury or Threat Thereof in Investigation No. 701-TA-21 (Preliminary)*, . . . USITC Publication 1041, February 1980.

On March 14, 1984, the Commission instituted investigation No. 731-TA-148 (Preliminary) to determine whether imports of fresh cut roses were causing material injury, or threatening such injury, to the U.S. industry. In September 1984, the Commission issued a negative determination that the U.S. industry was not materially injured or threatened with such injury, by reason of imports of fresh cut roses that Commerce had found were being, or were likely to be sold in the United States at less than fair value.<sup>4</sup>

Commerce has also conducted several of its own investigations with respect to fresh cut roses and other fresh cut flowers. The following is a description of those cases which involved countervailing duty allegations against imports of fresh cut roses from specified countries.

In response to a petition filed by a group of independent producers of roses and other flowers, Commerce, on August 26, 1982, initiated a countervailing duty investigation into imports of fresh cut roses and other fresh cut flowers from Colombia. On January 18, 1983, Commerce entered into a suspension agreement with 93 Colombian producers and exporters of roses and other cut flowers, whereby such producers and exporters renounced all benefits deemed countervailable by Commerce in a preliminary countervailing duty investigation, which was published in the *Federal Register* on November 5, 1982 (47 F.R. 50314).<sup>5</sup>

Commerce also published in the *Federal Register* on January 6, 1984 (49 F.R. 924), the final results of its administrative review with respect to fresh cut roses from Israel.<sup>6</sup> The review covered the period October 1, 1980, through September 30, 1981, and resulted in a determination of net subsidies amounting to 27.94 percent. Commerce recently conducted another administrative review with respect to fresh cut roses from Israel. In its preliminary determination, which was published in the *Federal Register* on March 13, 1989 (47 F.R. 10395), Commerce found that the amount of the net subsidies was 10.59 percent ad valorem for the period October 1, 1985, through September 30, 1986.

On April 16, 1984, Commerce published in the *Federal Register* (49 F.R. 15007) the results of its final negative countervailing duty determination with respect to fresh cut roses and

<sup>4</sup> *Fresh Cut Roses from Colombia: Determination of the Commission in Investigation No. 731-TA-148 (Final), Together with the Information Obtained in the Investigation*, USITC Publication 1575, September 1984.

<sup>5</sup> For the purpose of countervailing duty investigations, Colombia is not a "country under the Agreement"; therefore the Commission did not conduct an injury investigation. See 19 U.S.C. 1671 (b).

<sup>6</sup> Commerce's affirmative final determination was published in the *Federal Register* of Sept. 4, 1980 (45 F.R. 58516).

other fresh cut flowers from Mexico.<sup>1</sup> Commerce determined that no benefits constituting bounties or grants within the meaning of the countervailing duty law were being provided to Mexican producers or exporters of fresh cut flowers.

In 1985, following a request by Roses, Inc., the United States Trade Representative determined not to institute an investigation, under section 301 of the Trade Act of 1974, into imports of roses from Colombia, Costa Rica, the Dominican Republic, The European Community, Guatemala, Israel, and Mexico.<sup>2</sup>

<sup>1</sup> *Mexico is not a "country under the Agreement"; therefore the Commission did not conduct an injury investigation (19 U.S.C. 167 (b)).*

<sup>2</sup> 50 F.R. 40250.



## Chapter 2

### U.S. Market Supply and Demand

#### Introduction

Domestic production and imports of fresh cut roses have risen in recent years as a result of growth in consumer demand. The United States has been a net importer of roses since the late 1970s. The U.S. trade deficit for roses has increased steadily since then as the demand for U.S. rose exports has remained flat or declined owing to increased export competition, primarily from Colombia, while the demand for imported roses has increased dramatically. Canada is believed to be the only significant export market for U.S. rose growers.

Important shifts have occurred in the U.S. and world trade of fresh cut roses, including changes in traditional trading partners and their individual competitiveness since the early 1970s. Prior to the 1970s, most U.S. and international trade in fresh cut roses consisted almost entirely of border trade. However, the development of reliable transoceanic airline schedules, jet aircraft, and the building of sophisticated receiving and shipping facilities in many countries has allowed for the development of a world market for roses.

The last decade has also seen world trade of fresh cut roses expand dramatically. During 1981-85, imports of fresh cut roses by the major world importers (West Germany, the United States, Switzerland, the United Kingdom, France, the Netherlands, and Canada) increased to \$178.6 million, or by nearly 30 percent. By 1987, such trade totaled \$300 million.

#### Domestic Supply

The domestic supply of fresh cut roses has increased gradually over the last decade, ranging from 450 million to 522 million stems. During 1985-88, the domestic supply of fresh cut roses increased irregularly from 476.5 million stems to

521.9 million stems (table 2-1). Chapter 3 of the report will discuss the U.S. industry in greater detail.

#### U.S. Imports

Imports of fresh cut roses by the United States have increased steadily over the last two decades, from less than 1 million stems in 1970 to 39 million stems in 1980 and to a record 314 million stems in 1988 (table 2-2). In terms of volume, Colombia is by far the largest U.S. supplier of fresh cut roses, accounting for 76 percent of U.S. imports in 1988. Mexico accounted for 8 percent of U.S. imports in 1988, Guatemala 5 percent, Ecuador 4 percent, and the Netherlands 1 percent.

During 1984-88, U.S. imports of sweetheart roses declined irregularly from a peak of 2.7 million stems, valued at \$530,000, in 1984 to a low of 690,000 stems, valued at \$243,000, in 1988 (table 2-3). Canada was the principal U.S. supplier in 1988. Imports of hybrid tea roses increased steadily throughout the period from a low of 156.1 million stems, valued at \$37.3 million, to 313.2 million stems, valued at \$62.5 million (table 2-4).

#### U.S. Customs Treatment

Fresh cut roses are classified for tariff purposes under item 0603.10.60 of the Harmonized Tariff Schedule of the United States (HTS). Prior to January 1, 1989, fresh cut roses were classified under item 192.18 of the Tariff Schedules of the United States. The rates of duty currently applicable to imports of fresh cut roses are 8 percent ad valorem under column 1 and 40 percent ad valorem under column 2.<sup>1</sup> The column 1 duty

<sup>1</sup> The rates of duty in col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(B) of the HTS. In 1988, there were no imports from nonmarket economy countries subject to the col. 2 rates of duty. However, MFN rates would not apply to products of developed or developing countries if preferential tariff treatment is granted under the special rate of duty column.

Table 2-1

Fresh cut roses: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1985-88

Period	Production <sup>1</sup>	Exports <sup>2</sup>	Imports	Apparent con- sumption	Ratio of imports to—	
					U.S. pro- duction	Apparent consumption
	Million stems				Percent	
1985 .....	476.5	8	168.7	637.2	35.4	26.5
1986 .....	462.2	8	212.0	666.2	45.9	31.2
1987 .....	514.9	6	267.9	776.8	52.0	34.5
1988 <sup>2</sup> .....	521.9	6	313.9	829.8	60.1	37.8

<sup>1</sup> The staff of the U.S. International Trade Commission estimates that data reported in *Floriculture Crops* account for approximately 95 percent of U.S. production of fresh cut roses.

<sup>2</sup> Estimated by the staff of the U.S. International Trade Commission.

Source: U.S. production in 1985-87 compiled from *Floriculture Crops* of the U.S. Department of Agriculture; imports, compiled from official statistics of the U.S. Department of Commerce.

Table 2-2

Roses: U.S. Imports for consumption, by principal sources, 1984-88

Source	1984	1985	1986	1987	1988
<i>Quantity (1,000 stems)</i>					
Colombia .....	121,522	133,252	168,660	206,990	240,693
Mexico .....	7,113	7,889	13,449	18,716	26,419
Netherlands .....	9,341	6,258	5,755	5,110	5,787
Ecuador .....	1,095	378	3,985	10,033	14,437
Guatemala .....	6,251	7,130	9,224	13,393	16,953
Canada .....	1,284	803	906	1,103	783
Costa Rica .....	796	2,354	1,965	2,400	2,261
Dominican Republic .....	2,920	1,802	1,959	3,466	2,570
France .....	0	0	0	0	234
Israel .....	5,512	6,531	3,549	1,543	811
All other .....	2,965	2,255	2,529	4,167	2,947
Total .....	158,800	168,653	211,981	266,921	313,896
<i>Value (1,000 dollars)</i>					
Colombia .....	30,576	35,383	37,619	37,344	49,211
Mexico .....	1,525	1,843	2,619	2,940	5,011
Netherlands .....	2,318	1,782	1,974	1,950	2,115
Ecuador .....	141	75	597	1,409	2,095
Guatemala .....	920	807	1,214	1,778	2,074
Canada .....	636	331	416	573	544
Costa Rica .....	109	362	500	548	477
Dominican Republic .....	275	205	288	387	461
France .....	-	-	-	-	186
Israel .....	802	1,104	567	312	115
All other .....	507	485	638	927	467
Total .....	37,810	42,375	46,431	48,168	62,755
<i>Unit value (per unit)</i>					
Colombia .....	\$0.25	\$0.27	\$0.22	\$0.18	\$0.20
Mexico .....	0.21	0.23	0.19	0.16	0.19
Netherlands .....	0.25	0.28	0.34	0.38	0.37
Ecuador .....	0.13	0.20	0.15	0.14	0.15
Guatemala .....	0.15	0.11	0.13	0.13	0.12
Canada .....	0.50	0.41	0.46	0.52	0.69
Costa Rica .....	0.14	0.15	0.25	0.23	0.21
Dominican Republic .....	0.09	0.11	0.15	0.11	0.18
France .....	-	-	-	-	0.79
Israel .....	0.15	0.17	0.16	0.20	0.14
All other .....	0.17	0.21	0.25	0.22	0.16
Average .....	0.24	0.25	0.22	0.18	0.20

Source: Compiled from official statistics of the U.S. Department of Commerce.



Table 2-3

Sweetheart roses: U.S. imports for consumption, by principal sources, 1984-88

Source	1984	1985	1986	1987	1988
<i>Quantity (1,000 stems)</i>					
Canada .....	537	123	206	247	252
Netherlands .....	310	166	282	72	140
Colombia .....	1,464	516	574	496	246
Ecuador .....	19	0	0	13	45
Brazil .....	0	0	0	0	7
Costa Rica .....	115	347	967	306	0
Israel .....	224	970	405	33	0
Mexico .....	0	88	0	18	0
Cocos Islands .....	0	0	0	33	0
Jamaica .....	0	0	0	2	0
All other .....	0	100	36	0	0
Total .....	2,670	2,311	2,469	1,219	690
<i>Value (1,000 dollars)</i>					
Canada .....	213	65	132	165	156
Netherlands .....	65	42	165	26	40
Colombia .....	214	102	93	80	40
Ecuador .....	5	-	-	2	6
Brazil .....	-	-	-	-	1
Costa Rica .....	13	52	167	43	-
Israel .....	21	141	39	7	-
Mexico .....	-	15	-	5	-
Cocos Islands .....	-	-	-	4	-
Jamaica .....	-	-	-	1	-
All other .....	-	17	5	-	-
Total .....	530	433	599	334	243
<i>Unit value (per unit)</i>					
Canada .....	\$0.40	\$0.53	\$0.64	\$0.67	\$0.62
Netherlands .....	0.21	0.25	0.58	0.36	0.29
Colombia .....	0.15	0.20	0.16	0.16	0.16
Ecuador .....	0.24	-	-	0.11	0.13
Brazil .....	-	-	-	-	0.18
Costa Rica .....	0.11	0.15	0.17	0.14	-
Israel .....	0.09	0.15	0.10	0.22	-
Mexico .....	-	0.17	-	0.26	-
Cocos Islands .....	-	-	-	0.13	-
Jamaica .....	-	-	-	0.88	-
All other .....	-	0.17	0.13	-	-
Average .....	0.20	0.19	0.24	0.27	0.35

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 2-4

Hybrid tea roses: U.S. Imports for consumption, by principal sources, 1984-88

Source	1984	1985	1986	1987	1988
<i>Quantity (1,000 stems)</i>					
Colombia .....	120,058	132,736	168,086	206,494	240,447
Mexico .....	7,113	7,801	13,449	18,698	26,419
Ecuador .....	1,076	378	3,985	10,020	14,392
Netherlands .....	9,031	6,092	5,473	5,038	5,647
Guatemala .....	6,251	7,130	9,224	13,393	16,953
Costa Rica .....	680	2,007	998	2,095	2,261
Dominican Republic .....	2,920	1,802	1,959	3,466	2,570
Canada .....	748	681	701	856	532
France .....	0	0	0	0	234
Israel .....	5,288	5,561	3,144	1,510	811
All other .....	2,965	2,155	2,492	4,133	2,940
Total .....	156,130	166,343	209,512	265,702	313,206
<i>Value (1,000 dollars)</i>					
Colombia .....	30,362	35,282	37,526	37,264	49,171
Mexico .....	1,525	1,828	2,619	2,935	5,011
Ecuador .....	137	75	597	1,408	2,089
Netherlands .....	2,253	1,740	1,809	1,924	2,075
Guatemala .....	920	807	1,214	1,778	2,074
Costa Rica .....	97	310	334	505	477
Dominican Republic .....	275	205	288	387	461
Canada .....	423	265	284	407	388
France .....	-	-	-	-	186
Israel .....	781	963	528	305	115
All other .....	507	468	633	921	465
Total .....	37,280	41,942	45,832	47,835	62,513
<i>Unit value (per unit)</i>					
Colombia .....	\$0.25	\$0.27	\$0.22	\$0.18	\$0.20
Mexico .....	0.21	0.23	0.19	0.16	0.19
Ecuador .....	0.13	0.20	0.15	0.14	0.15
Netherlands .....	0.25	0.29	0.33	0.38	0.37
Guatemala .....	0.15	0.11	0.13	0.13	0.12
Costa Rica .....	0.14	0.15	0.33	0.24	0.21
Dominican Republic .....	0.09	0.11	0.15	0.11	0.18
Canada .....	0.57	0.39	0.41	0.48	0.73
France .....	-	-	-	-	0.79
Israel .....	0.15	0.17	0.17	0.20	0.14
All other .....	0.17	0.22	0.25	0.22	0.16
Total .....	0.24	0.25	0.22	0.18	0.20

Source: Compiled from official statistics of the U.S. Department of Commerce.

rate reflects a concession granted by the United States in the Tokyo Round of the Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade effective January 1, 1980. Imported fresh cut roses are eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act. Imported fresh cut roses are not eligible for duty-free treatment under the Generalized System of Preferences.

U.S. imports of fresh cut roses generally are valued for customs (duty-assessment) purposes on the basis of their transaction value—the price actually paid or payable for the articles when sold for export to the United States in the country of exportation (19 U.S.C. 1401a). It is difficult for the U.S. Customs Service to compute the dutiable customs value of fresh cut flowers based on their value in the exporting country if the flowers are imported from sources in Latin America; very little of the commercial production is sold in the domestic markets of the countries in that area. In addition, some of the imports from that area enter the United States on consignment for subsequent sale. Consignment shipments and related-party entries are valued monthly by the U.S. Customs Service for duty purposes. The rate of duty on fresh cut rose imports was assessed for such consignment and related-party entries on the following fixed valuations, January 1 through December 31, 1988:

	Long-stem roses, 20 inches or more in length	Short-stem roses, under 20 inches in length	Sweet-heart roses
1988			
	Cents per stem		
January .....	19	15	12
February .....	18	16	12
March .....	20	17	12
April .....	26	18	12
May .....	22	18	12
June .....	21	17	12
July .....	21	17	12
August .....	27	16	12
September .....	27	16	12
October .....	27	16	12
November .....	24	15	14
December .....	23	15	14

Transportation costs for imported fresh cut roses usually account for a substantial portion of the landed cost in the United States, since air shipment is often required owing to the perishability of the roses. In 1988, the c.i.f. value of fresh cut rose imports from Colombia ranged from 12 percent higher than the customs value for sweetheart roses to 8 percent higher for other roses.

All imported fresh cut roses are subject to Federal quarantine inspection to prevent the

spread of injurious plant pests (7 CFR 319.74). Inspections are made quickly and result in very few detentions. Imported roses also require a permit, but this permit is readily obtainable for roses shown to be free of injurious plant pests. Quarantine inspections are provided free of charge to importers during normal working hours of the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture. At all other times, importers are charged a fee for inspection services. The U.S. Customs Service considers fresh cut roses to be a low risk-of-interception item with regard to plant pests or disease owing to their relatively high unit value and their inability to withstand fumigation treatment in the event of pests.

## U.S. Exports

U.S. exports of fresh cut roses are very small in comparison with U.S. imports. Canada is, by far, the largest single market for U.S.-produced roses. The following tabulation shows both quantity and value of U.S. rose exports to Canada during 1984-87:<sup>1</sup>

Year	Quantity (1,000 stems)	Value (1,000 dollars)
1984 .....	8,006	1,915
1985 .....	6,694	1,546
1986 .....	6,813	1,580
1987 .....	4,730	1,348

As the tabulation indicates, the United States exported 4.7 million stems to Canada in 1987, which is less than 1 percent of the 514.9 million stems produced in the United States that year. The United States also appears to be losing its share of this important export market, as shown by the 41 percent decline in the quantity of exports, from 8.0 million stems in 1984. In addition, U.S. exports statistics to Canada may include a small percentage of product from other countries. Staff interviews with U.S. importers in Miami, FL, revealed that when transshipping fresh cut roses from South America to Canada, U.S. importing firms often pay both U.S. and Canadian duties, rather than ship the roses in bond.

<sup>1</sup> The data in the tabulation were compiled from official import statistics of the Canadian External Trade Division. Canada assesses import duties on a c.i.f., or landed, value basis; therefore, the Canadian value assessment for fresh cut roses may be higher than the corresponding value assessment would be in the United States. Fresh cut roses are not especially provided for in Schedule B of the Foreign Trade of the United States. The following exchange rates were used to convert the Canadian value data to U.S. dollars (International Financial Statistics 1988):

1984 .....	1.2951 CAN\$/US\$
1985 .....	1.3655
1986 .....	1.3895
1987 .....	1.3260

Data regarding U.S. exports to other world markets are not available; however, testimony from industry experts suggests that such exports are insignificant. Most evidence indicates that the remainder of U.S. exports are shipped to the EC, Mexico, and perhaps a few destinations in the South Pacific. EC imports from the United States reportedly reached their highest level of 4 metric tons, or approximately 100,000 stems, in 1987.

### U.S. Consumption

Consumption of fresh cut roses has grown rapidly in recent years. Increased availability of roses through nontraditional outlets such as supermarkets has increased consumer awareness of roses. Additionally, roses are being used more in informal arrangements and on occasions other than traditional holidays. During 1985-88, apparent U.S. consumption of fresh cut roses increased by an average annual rate of 9.1 percent, from 637.2 million stems to 827.8 million stems (table 2-1). Imports accounted for most of the growth in apparent consumption during this period. The ratio of imports to apparent consumption and to U.S. production increased from 26.5 percent and 35.4 percent, respectively, in 1985 to 37.8 percent and 60.1 percent, respectively, in 1988.

Available data suggest that the demand for sweetheart roses has not shared in this growth. Apparent consumption of sweetheart roses has ranged between 109 million and 110 million stems during 1985-87, as can be seen in the following tabulation (in millions of stems):

Year	Production	Imports	Apparent consumption
1985 .....	106.5	2.3	108.8
1986 .....	107.5	2.5	110.0
1987 .....	108.1	1.2	109.3

Changing consumer preferences, as well as changing requirements by retail florists, are the most likely reasons for the lack of growth in the consumption of sweetheart roses.

Data available on hybrid tea rose production by those firms responding to the Commission's grower questionnaire show U.S. growers gradually changing the mix of their production from the traditional red varieties to nonred varieties that are more typical of varieties produced in Europe. This change is a gradual process since most growers replace about 15 to 20 percent of their plants annually.

### Definition of the Market

For the purposes of defining the U.S. market for fresh cut roses, the demand side of the market is broken down into its major component parts: final and intermediate consumers. The final consumer, which encompasses both retail and commercial consumers, is regarded as the final demand for this product.

### Final consumers and products

The final consumers in the U.S. market for fresh cut roses fall into two major groups: retail and commercial or business. Retail consumers are primarily households purchasing fresh cut roses and arrangements containing fresh cut roses from retail florists and mass merchandisers (supermarkets). Commercial or business consumers (i.e., hotels, restaurants, and businesses) usually purchase their fresh cut roses through wholesale distributors or through retail florist shops.

### Intermediate consumers and products

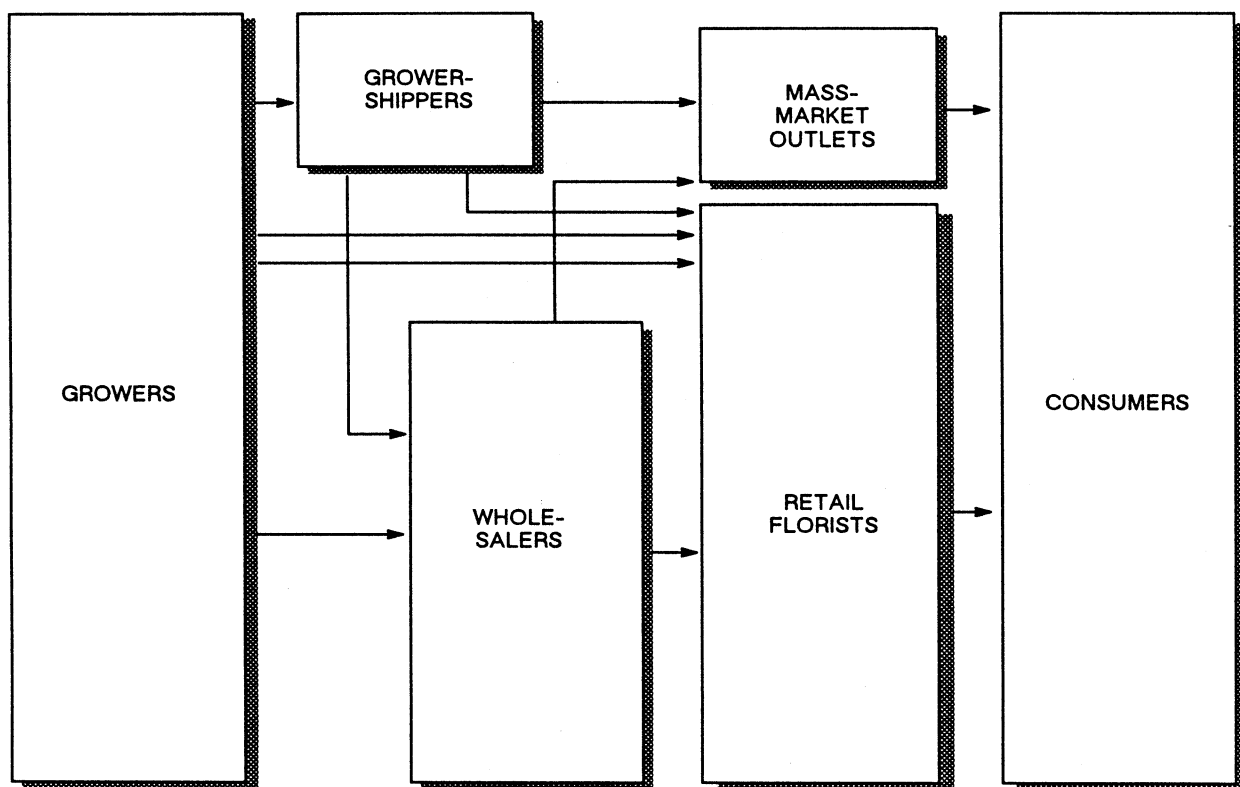
The demand for fresh cut roses to be used by bouquet manufacturers represents one form of intermediate consumption. Although they do not physically change the roses, these intermediate consumers combine them with other cut flowers and foliage to create bouquets for resale by wholesalers, supermarkets, street vendors, and, in some instances, retail florists to final consumers. Retail florist shops, supermarkets, and street vendors are also considered intermediate consumers of nonarranged roses. Although they do not alter the roses, they do provide services such as marketing, distributing, and arranging that add value to the final product purchased by the final consumer.

### Channels of Distribution

The channels of distribution used to market domestically grown fresh cut roses are the same as those used to market other types of fresh cut flowers. Most fresh cut rose production moves through the traditional market channels, from the growers to the wholesalers to retail outlets, and finally to the consumer (fig. 2-1). In recent years, grower-shippers have gained an important role in the distribution channel. Initially, grower-shippers almost exclusively shipped only flowers produced in their own growing facilities. Such entities have now expanded their operations to include the shipment of flowers produced by other growers as well as imported product. In many cases, grower-shippers have expanded product lines to cover a full line of fresh cut flowers to satisfy the needs of wholesalers, mass merchandisers (supermarkets), and retail florists.

Wholesalers generally carry a full line of fresh cut flowers along with various other plant materials and supplies used by retailers. The wholesalers receive the flowers in their warehouse and distribute them in the major markets. There are over 1,000 wholesalers in the United States. Some wholesalers, known as wholesaler-shippers, have also integrated their operations, establishing purchasing centers in major growing areas in order to obtain a product line tailored to the needs of floral mass merchandisers, retail florists, and consumers.

**Figure 2-1**  
U.S. channels of distribution for marketing domestically produced fresh cut roses in the United States



Note.—Channels of distribution for imported fresh cut roses are generally similar to those of domestic growers and grower-shippers. However, custom-house brokers and freight forwarders are generally added to the distribution chain between the growers or grower-shippers and the first U.S. customer.

Source: U.S. International Trade Commission.

The retail florist shops and the mass-merchandising outlets are generally the points at which fresh cut roses are sold to the ultimate consumer, although sales through street vendors have increased in importance. The retail florist is considered a full-service outlet and usually carries a full line of fresh cut flowers. In addition, the retail florist generally allows the consumers to charge purchases and have the product delivered, as well as providing other services, such as designing flower arrangements. The mass merchandiser generally operates on a cash-and-carry basis and is considered a no-service outlet. However, many mass merchandisers have established flower designing areas in their outlets.

Importers of fresh cut roses normally enter the distribution channel at the same level as the domestic grower or grower-shipper. However, some importers have expanded their operation to include wholesaling functions in major U.S. markets.

## Geographic Distribution

### *Domestic product distribution*

Data gathered from questionnaire responses on the distribution of domestically produced fresh cut roses show that growers in the States west of the Mississippi shipped approximately 40 percent of their production to the States east of the Mississippi. California was the largest supplier accounting for over 70 percent of such shipments. The majority of the sales of growers in California and Colorado were to wholesalers. Sales by growers in other States west of the Mississippi were primarily to retail florists. Virtually all of the sales by growers in States east of the Mississippi were to wholesalers and retailers in that region. Shipments to retail florists accounted for the majority of the sales. Sales to mass merchandisers accounted for just over 1 percent of total sales by all growers.

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### *Imported product distribution*

Data on the distribution of imported fresh cut roses are not available; nevertheless, data on imports of fresh cut roses by U.S. customs districts can provide a general indication of the concentration of U.S. imports. Customs district entry points, however, are not the final destination for most imports of fresh cut roses. In 1987 more than 85 percent of U.S. imports of all fresh cut roses entered through the Miami, FL, customs district. According to industry sources, the fresh cut roses are then shipped throughout the United States, with the bulk of the shipments going to wholesalers in the eastern U.S. market. Nearly all of the imports are from South American and Central American sources.

The New York City customs district is the next largest entry point for fresh cut rose shipments, accounting for over 5 percent of all entries in 1987. It is believed that almost all of the imports arriving at the New York City customs district are consumed within the greater New York City metropolitan area. The vast majority of the imports are from West European countries and the Mediterranean region. Imports from these countries into the New York entry point are generally of the hybrid tea rose varieties, imports into Miami and other cities along the Southern and Southwestern belt are also almost always of the hybrid tea varieties. A few entry points along the northern border occasionally receive imported fresh cut roses from Canada, primarily sweetheart rose varieties, and entry points in the Houston area receive the bulk of their imports from Mexico.

### **Role of Governments**

There are no specific U.S. Government programs designed to enhance the production, shipping, or marketing of fresh cut roses. However, at the grower level, a number of activities supported in part by public funds (Federal and State) influence the competitiveness of U.S. rose growers. Many of the new horticultural practices, disease and insect control research, and post-harvest physiology work in the United States regarding fresh cut roses have been conducted at land-grant colleges and universities.

Though the U.S. Government limits its involvement in the domestic rose-growing industry, some governments do offer a wide range of programs to their growers to promote the production and export of fresh cut roses. Many of these programs have a direct influence on the competitiveness of these foreign rose-growing industries vis-a-vis the U.S. industry. Specific aspects of

governments' roles that relate to fresh cut roses are further discussed in chapter 7.

### **Role of Non-Government Organizations**

The U.S. rose industry conducts extensive research on its own behalf. The Joseph H. Hill Memorial Foundation, an affiliated research organization funded by members of Roses, Inc.,<sup>1</sup> supports research projects at various universities that will be beneficial to the rose industry. In the 1988-89 fiscal year, the Foundation funded \$71,000 worth of research. Roses, Inc., also has an ongoing public relations program that is designed to motivate greater consumer interest in roses. Roses, Inc., spends about 50 percent of its annual dues from growers on this program.

Florists' Transworld Delivery Association (FTD), a cooperative owned by 22,500 members located throughout the United States, functions as a clearinghouse for its members. FTD provides research, marketing, and educational and promotional services. FTD is a major advertiser and promotor of fresh cut flowers and other floricultural products. FTD members are also a major intermediate consumer of fresh cut roses.

In 1988, Roses, Inc., FTD, Asocolflores, and the Floral Importers of Florida joined together in a marketing test to promote fresh cut rose sales in the U.S. market. Results of that test marketing indicated that an advertising budget of approximately \$6 million, annually, would increase fresh cut rose sales at the consumer level by 10 percent. As of this time, they have not established a nationwide marketing program.

The Flower Marketing Council of Holland also promotes the consumption of cut flowers in the European Community and other foreign markets including the United States. The main activities of the Council are trade and consumer advertising, exhibitions, and educational sales programs. In 1988, the Council's budget was \$6.94 million.

The American Floral Marketing Council (AFMC), the marketing arm of the Society of American Florists (SAF)<sup>2</sup>, conducts research and marketing promotions on fresh cut flowers including fresh cut roses. In 1987, AFMC's budget was approximately \$3 million. The budget is financed through voluntary contributions of SAF members.

<sup>1</sup> Roses, Inc. is a trade association whose membership consists of growers of fresh cut roses.

<sup>2</sup> SAF is a trade association whose membership consists of growers, wholesalers, retailers, and importers of fresh cut flowers.

# Chapter 3

## U.S. Industry

### General

During 1950-88 there was a marked shift in the composition of the fresh cut rose industry in the United States, from many small local growers near eastern and midwestern population centers to large growers primarily in California and Colorado. California, with its clear, sunny days, has perhaps the best U.S. climate for producing fresh cut roses. Colorado also has a great deal of sunshine—a requisite for growing good quality roses—in spite of cold winter weather, with its attendant fuel costs. Pennsylvania, Indiana, and New York are also important rose-producing States, owing in part to their proximity to eastern and midwestern population centers.

Historically, the U.S. rose grower has produced for the domestic market and has been the principal supplier to the domestic market, shipping only limited quantities to the export market, primarily Canada. However, U.S. growers are now facing strong competition in the domestic market from Colombia, and to a lesser extent from Mexico and the Netherlands.

### Structure

It is estimated that there are over 250 commercial rose growers in the United States. Table 3-1 shows the number of commercial growers of cut roses, by principal types, in major producing States in recent years.<sup>1</sup> In 1987, there were 251 commercial growers of hybrid tea roses in the 28 major producing States, up 3 percent from the number of growers in 1985. The number of commercial growers of sweetheart roses in the 28 major producing States increased by 2 percent, from 166 growers in 1985 to 169 growers in

<sup>1</sup> The major producing States are Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Virginia, Washington, and Wisconsin.

Table 3-1

Fresh cut roses: Number of U.S. commercial growers of hybrid tea and sweetheart roses in leading producing States, 1985-87

Year	Hybrid tea roses			Sweetheart (miniature) roses		
	California and Colorado	Other States	Total	California and Colorado	Other States	Total
1985 .....	98	145	243	74	92	166
1986 .....	99	129	228	76	91	167
1987 .....	120	131	251	81	88	169

Source: Compiled from official statistics of the U.S. Department of Agriculture.

1987.<sup>2</sup> However, the increased number of growers of hybrid tea roses in California and Colorado accounted for almost all of the increase during the period. The number of commercial growers in all other States declined as a group for both hybrid tea and sweetheart roses. U.S. commercial rose growers vary in size in terms of the number of rose plants in production, from firms with less than 1,000 rose plants to one firm with nearly 1.5 million plants.

Responses to the Commission's grower questionnaire indicated that in 1988 all but 1 of the 120 responding firms produced hybrid tea and intermediate roses. Of the 119 growers that produced hybrid tea and intermediate roses, 93 also produced sweetheart roses.

### Industry concentration

There appears to be no significant industry concentration of establishments growing fresh cut roses, as illustrated in table 3-1; however, there is geographic concentration of growers producing roses. Although some of larger growers market their production through a single shipper, there is no single shipper or grower that is known to account for a large enough share of total U.S. production to hold a dominant market position.

### Integration and diversification

Vertical integration has increased over the last decade primarily with regard to the growing and shipping of roses. Some growers have also joined together cooperatively to sell their fresh cut flowers, including roses, through wholesale outlets. In some instances, domestic growers have their own retail outlets in which they market their fresh cut rose production.

Most rose growers are not diversified to any significant degree. Although some rose growers will produce other floricultural crops in the same greenhouses as fresh roses, horticultural practices usually limit the degree to which this can be done. In many instances, a grower will use another facility to produce other floriculture crops. In general, the importance of fresh cut rose production relative to other horticultural products varies significantly by firm.

<sup>2</sup> The staff of the U.S. International Trade Commission estimates that the major producing States account for at least 95 percent of U.S. commercial rose production.

## Organization of Production

Most commercial growers raise both hybrid tea and sweetheart roses. An average-sized U.S. hybrid tea rose-growing operation,<sup>1</sup> as reported by the U.S. Department of Agriculture (USDA), would have about 78,000 hybrid tea rose plants in production, requiring about 120,000 square feet of greenhouse space. The grower would sell about 1.6 million rose blooms annually from these plants and would have annual sales of hybrid tea roses of about \$560,000. Similarly, an average U.S. grower of sweetheart roses<sup>2</sup> would have about 22,000 sweetheart rose plants in production, requiring about 33,000 square feet of greenhouse space. Annual production from this area would be about 640,000 blooms, valued at \$104,000.

Data for the 120 firms responding to the Commission's grower questionnaire for 1988 show these firms being somewhat larger than those cited above. The average hybrid tea rose grower had about 111,000 plants in production, requiring about 180,500 square feet of greenhouse space. The average grower sold about 2.5 million blooms, valued at \$825,500, in 1988. Similarly, a grower of sweetheart and spray roses had about 20,300 plants in production, requiring 34,200 square feet of greenhouse space. The grower sold about 865,600 blooms, valued at \$167,500, from that area in 1988.

## Production Process

Nearly all roses grown commercially in the United States for fresh cut rose production are produced in greenhouses, because rose plants are more exacting in their light, temperature, and moisture requirements than are most other flowers. Field grown roses lack the quality and durability needed by most wholesalers and retail florists and are usually intended for local consumption.

Greenhouses may be of a rigid type (constructed of glass or rigid fiberglass) or they may be of a film type (constructed from plastic or polyethylene). Both types of structures have certain advantages and disadvantages. For instance, rigid-type structures have very high initial construction costs but have lower maintenance costs compared with those of the film-type structure. Both types of structures are common throughout the United States, and each is usually tailored to the individual grower's needs. Rose greenhouses in the United States require some type of supplemental heating for year-round rose production. Where possible, growers usually use natural-gas-fired boilers rather than oil-fired boilers or other types of heating systems, owing in major part to

the cost advantages of natural gas. Because fuel costs are usually the largest cost item in the continuing process of rose production, growers are turning to alternative energy sources for their heating needs (e.g., geothermal, wood, sawdust, coal, and waste heat from power plants).

The production of roses is a long-term investment. A typical rose plant will be in production for 4 to 8 years and will produce between 80 and 200 blooms during that time, depending on the rose variety. The sweetheart varieties are usually more prolific than the average rose plant, and some of the hybrid tea varieties are far less fruitful. A grower must also contract in advance for new rose plants that will be used either to replace existing plants or to add new ones. This leadtime is usually between 9 months and 1 year, but for some varieties, the leadtime may be nearly 2 years. Also, once the plants are placed in the greenhouse, it is about 120 days before the first rose bloom can be cut. It may take the plant a year to reach its peak production level. In addition, rose plants are normally leased from the propagator. The lease usually stipulates that cuttings to produce more plants are prohibited, and once the plants are removed from the growing area, they must be destroyed. The conditions also apply to outright sales of the rose plants. Hence, a grower has to produce cut roses if he is to recover his investment in the rose plants.

Fresh roses, after being cut, are taken to a packing shed adjacent to the greenhouse and placed in a cooler as soon as possible. After the roses are cooled or prior to being placed in the cooler, the roses are graded by stem length, quality, and color. The roses are generally bunched in groups of 25 stems and then placed in water or a preservative solution. They also may be placed dry (after they have been hydrated) in the cooler on shelves until they are packed for shipping. Roses may be held for several weeks in coolers. For shipping, fresh cut roses are placed dry in shipping containers (usually 400–500 stems per container). Depending on the distance that the roses will be shipped, the shipping container may be insulated and/or packets containing ice may be added in order to keep the roses cool in the summer. Insulated boxes are also used in the winter to prevent cold damage.

## Production

U.S. fresh cut rose production has increased in the 1980s, with hybrid tea roses experiencing the most growth. In terms of value, U.S. production of sweetheart and hybrid tea roses increased by 17 and 66 percent, respectively, during 1980–87 (table 3–2). In terms of quantity, domestic production of hybrid tea roses over the period increased by 29 percent. However, sweetheart rose production declined by 3 percent.<sup>3-2</sup>

<sup>1</sup> The data cover 251 hybrid tea rose growers in 1987.

<sup>2</sup> The data cover 169 sweetheart rose growers in 1987.



Table 3-2

Fresh cut roses: U.S. production, by types, and by major producing States, 1980-87

Type, by production area	1980	1981	1982 <sup>1</sup>	1983 <sup>1</sup>	1984	1985	1986	1987
<i>Quantity (1,000 stems)</i>								
Sweetheart:								
California .....	50,017	53,979			53,906	52,867	55,339	58,678
Colorado .....	8,566	6,168			9,269	7,622	8,896	5,291
Pennsylvania .....	11,665	9,278			9,595	8,890	6,821	6,453
Indiana .....	9,714	9,228			10,817	8,406	9,854	8,857
All other .....	32,074	30,031			24,721	28,452	26,565	28,786
Total .....	112,036	108,684			108,308	106,237	107,475	108,065
Hybrid tea:								
California .....	177,070	188,927			234,840	232,493	226,191	271,817
Colorado .....	22,598	13,222			22,953	22,454	25,194	18,178
Pennsylvania .....	17,942	20,420			20,207	22,748	18,157	18,843
Indiana .....	16,712	16,277			17,059	18,183	15,666	18,887
All other .....	79,309	74,109			59,072	77,435	69,494	79,071
Total .....	313,631	312,955			354,131	370,313	354,702	406,796
Grand total ....	425,667	421,639			462,439	476,550	462,177	514,861
<i>Value (1,000 dollars)</i>								
Sweetheart:								
California .....	6,852	8,205			9,434	9,463	9,740	10,621
Colorado .....	1,816	956			1,770	1,349	1,637	963
Pennsylvania .....	3,534	1,893			2,399	3,458	2,442	2,284
Indiana .....	2,254	2,307			2,899	2,303	3,212	2,400
All other .....	7,866	8,242			7,729	9,405	9,135	9,760
Total .....	22,322	21,603			24,231	25,978	26,166	26,028
Hybrid tea:								
California .....	37,008	45,154			58,945	65,331	65,786	73,662
Colorado .....	5,288	3,491			6,588	7,118	7,634	6,126
Pennsylvania .....	9,025	6,330			7,254	10,830	10,676	11,796
Indiana .....	7,069	6,706			7,472	9,019	8,670	8,367
All other .....	26,646	28,355			26,502	33,045	34,272	41,213
Total .....	85,036	90,036			106,761	125,343	125,038	141,164
Grand total ....	107,358	111,639			130,992	151,321	151,204	167,192

<sup>1</sup> Data were not gathered by the U.S. Department of Agriculture during these years.

Note—Data for 1987 are not comparable with early years due to an expansion of the data base in 1987.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

During 1985-87, domestic production of sweetheart roses, as reported by the USDA,<sup>1</sup> increased from 106.2 million stems, valued at \$26.0 million, to 108.1 million stems, valued at \$26.0 million, representing an increase of 1.7 percent in volume. During the same period, production of hybrid tea roses increased from 370.3 million stems, valued at \$125.3 million, to 406.8 million stems, valued at \$141.2 million, or by 9 percent.

The Commission sent questionnaires to 256 firms believed to be U.S. commercial rose grow-

ers during 1985-88.<sup>2</sup> Responses were received from 172 growers, with 120 of them providing usable data on their production of fresh cut roses. These 120 respondents accounted for 69 percent of the stems sold by U.S. producers in 1987.

According to data submitted by the 120 firms responding to the grower's questionnaire of the Commission, domestic production of sweetheart and spray roses declined steadily from 76.2 mil-

<sup>1</sup> The Floricultural Crops report of the U.S. Department of Agriculture covering 1988 production of fresh cut roses was released in April 1989.

<sup>2</sup> The Commission sent questionnaires to 206 members of Roses, Inc., a trade association of U.S. growers, and 50 questionnaires to firms that were not members of Roses, Inc. Responses were received from 142 members of Roses, Inc., and from 30 nonmembers of Roses, Inc.

Table 3-3

Fresh cut roses: U.S. production of 120 growers, by types, and by major producing regions, 1985-88

Type and region	1985	1986	1987	1988
<i>Quantity (1,000 stems)</i>				
Sweetheart and spray roses:				
California .....	43,587.1	43,084.7	38,215.5	36,860.6
Colorado .....	7,427.2	7,057.7	6,536.9	6,369.4
Other Western United States .....	6,338.8	7,370.3	6,918.9	6,308.9
Eastern United States .....	18,819.2	18,390.6	18,183.6	16,956.4
Total .....	76,172.3	75,903.3	69,854.9	66,495.3
Hybrid tea, intermediate, and all other rose varieties:				
California .....	149,879.8	169,593.2	171,988.2	174,168.2
Colorado .....	21,179.1	22,733.8	23,462.5	25,504.0
Other Western United States .....	16,434.8	19,924.5	22,568.8	22,745.2
Eastern United States .....	49,052.8	51,607.1	53,968.1	56,869.5
Total .....	236,546.3	263,858.6	271,987.6	279,286.9
Unspecified <sup>1</sup> .....	12,453.5	13,635.4	13,295.4	13,842.1
Grand total .....	325,172.3	353,397.3	355,137.9	359,624.3
<i>Value (\$1,000)</i>				
Sweetheart and spray roses:				
California .....	6,500.1	6,239.3	5,645.6	5,616.9
Colorado .....	1,229.6	1,270.4	1,223.8	1,097.4
Other Western United States .....	1,793.7	2,135.3	1,956.2	1,910.1
Eastern United States .....	6,095.3	6,101.3	6,214.3	6,113.5
Total .....	15,618.7	15,746.3	15,039.9	14,737.9
Hybrid tea, intermediate, and all other rose varieties:				
California .....	39,158.3	43,558.5	45,204.8	44,710.2
Colorado .....	6,479.2	6,989.2	7,630.8	8,150.9
Other Western United States .....	6,659.7	7,397.4	7,981.8	8,546.1
Eastern United States .....	26,075.6	27,408.1	28,325.0	30,255.9
Total .....	78,372.8	85,353.2	89,142.4	91,663.1
Unspecified <sup>1</sup> .....	4,841.2	5,750.8	5,888.4	6,152.3
Grand total .....	98,832.7	106,850.3	110,070.7	112,553.3

<sup>1</sup> Data are for those growers that could not provide separate data for their production of sweetheart and spray roses, hybrid tea, intermediate, and all other rose varieties.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

lion stems, valued at \$15.6 million, in 1985 to 66.5 million stems, valued at \$14.7 million, in 1988 (table 3-3). California and Colorado accounted for most of the decline over the period.

During the same period, U.S. producers of hybrid tea, intermediate, and other rose types responding to the Commission's questionnaire increased production of such roses from 236.5 million stems, valued at \$78.4 million, in 1985 to 279.3 million stems, valued at \$91.7 million, in 1988. California and Colorado accounted for most of the increase of such roses over the period.

For those growers who could not provide separate data on their production of roses, production of all roses varieties increased irregularly

from 12.5 million stems, valued at \$4.8 million in 1985 to 13.8 million stems, valued at \$6.2 million in 1988.

Production for all varieties of roses, as reported by questionnaire respondents, increased from 325.2 million stems, valued at \$98.8 million, in 1985 to 355.1 million stems, valued at \$110.1 million, in 1987. Production continued to increase in 1988, rising to 359.6 million stems, valued at \$112.6 million, representing an increase of 1.3 percent in quantity and 2.3-percent in value from the 1987 levels.

### Production area

During 1985-87, the area devoted to fresh cut rose production, as reported by the USDA, in-

creased by 13 percent, as shown in the following tabulation (in thousands of square feet):

Year	Sweetheart roses	Hybrid tea roses	Total
1985 .....	5,533	25,854	31,387
1986 .....	5,413	27,237	32,650
1987 <sup>1</sup> ....	5,521	30,031	35,552

<sup>1</sup> Data reported in 1987 are not comparable to those reported in earlier years because USDA expanded the data base in 1987.

The area devoted to sweetheart rose production declined slightly over the period, while the area devoted to hybrid tea rose production increased. California accounted for the bulk of the increase over the period.

Respondents to the Commission's questionnaire had a total area of 24.2 million square feet devoted to the production of roses in 1988, compared with 21.2 million square feet in 1985, as shown in the following tabulation (in thousands of square feet):

Year	Sweetheart roses	Hybrid tea roses	Unspecified <sup>1</sup>	Total
1985 .....	3,168	17,003	1,037	21,209
1986 .....	3,112	17,964	1,037	22,113
1987 .....	3,057	19,103	1,062	23,223
1988 .....	3,013	20,038	1,110	24,162

<sup>1</sup> Data are for those growers who were not able to separate the area devoted to sweetheart and spray roses from hybrid tea, intermediate, and all other rose varieties.

Increases in the area devoted to hybrid tea roses accounted for all of the increase, rising by 3.0 million square feet over the period. During the same period the area devoted to sweethearts declined by 150,000 square feet.

### Plants in production

During 1985-87, the total number of rose plants, as reported by USDA, used in the production of fresh cut roses increased irregularly from 21.8 million plants in 1985 to 23.2 million plants in 1987, or by 6 percent, as shown in the following tabulation (in thousands of plants):

Year	Sweetheart roses	Hybrid tea roses	Total
1985 .....	3,770	17,995	21,765
1986 .....	3,592	17,838	21,430
1987 <sup>1</sup> ....	3,714	19,461	23,175

<sup>1</sup> Data reported in 1987 are not comparable with those reported in earlier years because USDA expanded the data base in 1987.

Although the total number of plants and the number of hybrid tea plants increased during 1985-87, the number of sweetheart rose plants in production declined by 1 percent, reflecting the reduction in the area devoted to sweetheart rose

production during 1985-87. Several growers in their responses to the Commission's questionnaire stated that they shifted production out of sweetheart roses because of increased demand by their customers for hybrid tea rose varieties.

Questionnaire responses regarding the number of plants showed a trend similar to that reported by the USDA, as indicated in the following tabulation (in thousands of plants):

Year	Sweetheart roses	Hybrid tea roses	Unspecified <sup>1</sup>	Total
1985 ....	1,946	10,404	677	13,027
1986 ....	1,906	11,011	677	13,593
1987 ....	1,831	11,856	699	14,386
1988 ....	1,790	12,359	737	14,887

<sup>1</sup> Data are for those growers who were not able to separate the area devoted to sweetheart and spray roses from hybrid tea, intermediate, and all other rose varieties.

### Value of production

One of the measures of the economic performance of the rose industry is the value of production per square foot of greenhouse space used in the growing of roses. During 1985-87, the value of production per square foot as reported by the USDA for roses trended downward, from a high of \$4.84 per square foot in 1985 to a low of \$4.63 in 1986, before rising to \$4.70 in 1987 (table 3-4). This downward trend reflects the fluctuation in the average price received per stem by U.S. growers over the period and changes in the number of stems produced per square foot. The table also shows the return per square foot for other major fresh cut flowers produced in greenhouses during 1985-87. The returns per square foot for all of the flower types declined over the period. Standard chrysanthemums and miniature carnations had the most significant declines, followed by standard carnations and pompon chrysanthemums.

Although roses have the highest return per square foot of any of the flowers shown in the table, the table does not take into account the production cost per square foot required to yield these returns. Also, the table has not been deflated to take into account the effects of inflation on the returns. If such returns were indexed, they would be lower than those reported in table 3-4 for 1986-87.

Data submitted by 120 rose growers show that their returns of production per square foot over the period also declined, but not as markedly as that reported by USDA, as shown in the following tabulation:

Type	1985	1986	1987	1988
Sweetheart roses ...	\$4.93	\$5.05	\$4.92	\$4.89
Hybrid tea roses ....	4.55	4.67	4.59	4.50

3-5

Table 3-4

Selected fresh cut flowers: U.S. production, returns per square foot, by major flower types, 1985-87

Flower type	1985	1986	1987
Roses:			
Sweetheart .....	\$4.73	\$4.83	\$4.71
Hybrid tea .....	4.87	4.59	4.70
Average .....	4.84	4.63	4.70
Carnations:			
Miniature .....	3.17	2.49	2.37
Standard .....	2.65	2.39	2.39
Chrysanthemums:			
Pompon .....	1.49	1.17	1.40
Standard .....	2.98	1.80	1.54

Source: Compiled from *Floriculture Crops*, U.S. Department of Agriculture.

### Employment and Wages

The Commission requested data from U.S. rose growers on the average number of all persons employed by their firm during 1985-88; the average number of workers producing all cut flowers, the average number of workers producing only fresh cut roses, hours worked by production and related workers, and wages and total compensation paid to them. On the basis of the 100 usable responses to the employment section, average total employment of the reporting firms increased irregularly from 3,043 persons in 1985 to 3,205 persons in 1988, representing an increase of 5.4 percent (table 3-5). The average number of production and related workers engaged in the production of fresh cut roses increased irregularly from a low of 2,112 persons in 1985 to a high of 2,194 persons in 1988, an increase of 3.9 percent. Of the 100 growers that reported usable employment data on the average number of workers engaged in fresh cut rose production in 1988: 45 employed 10 or fewer workers, 22 employed 11 to 20 workers, 22 employed 21 to 50 workers, and 11 employed more than 50 workers.

Total wages paid to production and related workers engaged in the growing of fresh cut roses increased steadily, from \$24.6 million in 1985 to \$29.4 million in 1988, or an average annual increase of 6 percent. Production and related workers involved in growing fresh cut roses for the responding 100 firms worked a total of 4.7 million hours in 1988 at an average wage rate of \$6.32 per hour, compared with a total of 4.4 million hours in 1985 at an average wage rate of \$5.62. Worker's productivity (the number of salable blooms sold per hour worked) for production and related workers for the 100 responding firms increased from 64.5 blooms per worker-hour in 1985 to a peak of 67.3 blooms in 1986. Productivity declined steadily thereafter to 65.2 blooms in 1988.

The Commission's questionnaire requested data on the number of hours worked by owners and supervisors in nonsupervisory capacities in the production of fresh cut roses. Such time could involve time spent as the certified pesticide applicator, fertilizer mixer, or in grading, packing, or other related activities. During 1985-88, owners

and supervisors supplied part or all of the labor requirements. Their hours totaled 208,771 in 1985<sup>1</sup> and increased steadily to 249,615 hours in 1988, an increase of nearly 20 percent. During the same period, these firms increased the number of production and related workers engaged in fresh cut rose production by 7 percent and the number of hours worked by production and related workers producing fresh cut roses by 8 percent.

### Prices

Prices of fresh cut roses, in general, can be divided into three levels in the United States. The first level is shipping point price or the price paid by wholesalers to the grower, shipper, or importer. The second level is the price wholesalers charge retailers, or the wholesale market price.<sup>2</sup> The third level is the retail price, or what the consumer pays. Since fresh cut roses deteriorate rapidly, retailer markups are higher than other commodities that are more durable. Total retailer markups are generally in the neighborhood of 300 percent. Thus, the difference between the second-level price and the third-level price is large. This report, however, only addresses prices at the first and second levels.

### Major factors affecting prices

Prices of fresh cut roses vary according to their physical characteristics and the market forces that exist in both the supply and demand sides. Physical characteristics refer to stem length, color, type, and appearance. Higher prices are generally obtained for long stems, the red color, the hybrid tea varieties, and for fresher looking roses. Higher prices are generally received for locally grown roses, owing to a perceived superior quality compared to non-local roses. This quality premium is a function of the time that elapses after a rose is cut until it is made available for sale in a wholesale market.

<sup>1</sup> Data are for 72 firms.

<sup>2</sup> It is not unusual that domestic rose growers and importers sell their roses to wholesalers and retailers simultaneously. Some growers sell their roses in wholesale markets just like other wholesalers. Many florists also act as both wholesalers and retailers. The dual status does not alter the price levels.

Table 3-5

**Fresh cut roses: Average number of employees, average number of production and related workers, hours worked by production and related workers, wages paid to production and related workers, average productivity of production and related workers producing fresh cut roses, average hourly wage rate earned by such workers, and hours worked by owners, 1985-88**

Item	1985	1986	1987	1988
Average number of all persons employed .....	3,043	3,142	3,091	3,205
Average number of production and related workers producing—				
All products .....	2,464	2,537	2,474	2,565
Fresh cut roses .....	2,112	2,189	2,161	2,194
Hours worked by production and related workers producing—				
All products (1,000 hours) .....	5,108	5,271	5,263	5,422
Fresh cut roses (1,000 hours) .....	4,370	4,556	4,616	4,659
Wages paid to production and related workers producing—				
All products (1,000 dollars) .....	28,402	30,183	31,440	34,228
Fresh cut roses (1,000 dollars) .....	24,587	26,227	27,737	29,430
Average productivity of production and related workers producing fresh cut roses:				
Blooms per worker-hour .....	64.5	67.3	66.8	65.2
Average hourly wage rate for production and related workers producing—				
All products .....	\$5.55	\$5.73	\$5.97	\$6.31
Fresh cut roses .....	5.62	5.76	6.01	6.32
Hours worked by owners and/or supervisors:				
Fresh cut roses (1,000 hours) .....	208.8	215.1	228.1	249.6

Note.—Hours worked by owners cover 72 firms; all other data cover 100 firms.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The market price for fresh cut roses is especially sensitive to changes in quantities demanded. The demand for roses is high at Easter, Mother's Day, Memorial Day, Thanksgiving, Hanukkah, and Christmas, reaching its peak on Valentine's Day. Prices are low and stable during the summer as a result of low demand.<sup>1</sup> The price of roses is also affected by unexpected changes in the supply of roses. In early 1977, for instance, a frost damaged the Colombian rose crop, thereby limiting the U.S. supply of roses on Valentine's Day. As a result, U.S. prices for fresh roses soared above their normally high holiday levels in February 1977.<sup>2</sup>

Prices for fresh cut roses are also affected by the way they are sold. Like other fresh cut flowers, roses are sold in one of three ways: standing order sales, spot market sales, and consignment sales. Standing order sales are generally sales made at fixed prices with quantities varying, depending on purchaser demand. Spot market sales usually take place in a market or in a firm. Purchases and payments are accomplished right on the spot. Consignment purchases are made by risk-avoiding wholesalers and retailers that purchase roses on commission only. Owing to the short lifespan of fresh cut roses, many wholesalers prefer to purchase on consignment. This allows them to receive a commission for the roses they sell and to return or dispose of the perished or unsold ones. The commission ranges from approximately 10 to 27 percent of the f.o.b. price.

<sup>1</sup> "Demand" and "quantity demanded" are used interchangeably in this report. Demand for roses is relatively high in June since there are more weddings in June.

<sup>2</sup> *Fresh Cut Roses From Colombia* (Investigation No. 731-TA-148 (Final)), USITC Publication 1575, September 1984, p. A-32.

To evaluate the price trends of roses, the Commission has used information from both public and private sources. The public information consists of price data on wholesale markets in various geographic locations, published periodically by the Federal-State Market News Service (a price reporting system provided jointly by the U.S. Department of Agriculture and the State Departments of Agriculture). Usually, the public price data are reported in the range in which a specific type of rose is sold. The private price data are those provided by U.S. rose growers, shippers, and importers in response to questionnaires of the U.S. International Trade Commission. The Commission calculated weighted-average prices for each of the three specific types of roses on the basis of pricing data of individual questionnaires. The public data show the price differences in different market areas, whereas the private data show the price differences in the three different ways that roses are sold and by three different types of sellers. Both data are complementary rather than substitutes for each other.

### *Price trends based on public data*

*Shipping point prices.*—During the sample period (January 1985 to December 1988), more than one-half of all roses (hybrid tea and sweetheart) sold in the United States were grown in California; however, Colorado, Indiana, Pennsylvania, New York, Massachusetts, and Ohio also produced roses, as well as a number of other States. More than 85 percent of all imported fresh cut roses arrived at Miami, FL. Thus, the shipping point prices on the central coast of California and Miami, as shown in table 3-6, could be representative of the U.S. market as a whole.

Table 3-6

Roses: California and Florida shipping point prices, by types and length of stems, January 1985-December 1988

Period	(Per stem)				
	South American roses <sup>1</sup>	California Hybrid tea roses			Sweetheart roses
	26" and longer	26" and longer	22" to 26"	18" to 22"	14" and longer
<b>1985:</b>					
January 6-12 . . . .	\$0.65-\$0.70	\$0.60-\$0.62	\$0.58-\$0.64	\$0.56-\$0.62	\$0.26-\$0.28
February 3-9 . . . .	1.10	1.15-1.18	1.10-1.16	1.00-1.14	.60
February 17-23 . .	.85-1.00	.68-.74	.64-.70	.60-.66	.30-.40
April 28-May 4 . . .	.20-.25	.40-.48	.38-.46	.36-.44	.28-.36
May 12-18 . . . . .	.20-.25	.38-.40	.36-.38	.34-.36	.30
August 4-10 . . . . .	.20-.25	.32	.26-.30	.24-.28	.14-.16
November 3-9 . . .	.15-.20	.36-.38	.34-.36	.32-.34	.14-.16
December 8-14 . . .	.35-.38	.40-.48	.38-.46	.36-.44	.20-.24
<b>1986:</b>					
January 5-11 . . . .	.60	.62-.68	.60-.66	.60-.66	.24-.30
February 2-8 . . . .	1.25	1.25	1.20-1.23	1.10-1.20	.64-.75
February 16-22 . . .	.25	.75-.86	.70-.86	.60-.72	.32-.40
April 27-May 3 . . .	.30-.35	.44-.48	.38-.44	.38-.40	.32-.38
May 11-17 . . . . .	.35-.42	.32-.38	.30-.34	.28-.32	.22-.26
August 3-9 . . . . .	.35-.40	.32-.34	.28-.32	.26-.32	.12-.16
November 2-8 . . . .	.20-.28	.34-.36	.32-.34	.28-.32	.14-.16
December 7-13 . . .	.32-.39	.32-.38	.30-.36	.32-.34	.10-.14
<b>1987:</b>					
January 8-14 . . . .	.50-.65	.70-.72	.70-.72	.68-.72	.30-.34
February 1-7 . . . .	1.15-1.25	1.25	1.15-1.25	1.15-1.20	.68-.70
February 15-21 . . .	.17-.35	.59-.64	.57-.64	.55-.62	.24-.36
April 26-May 2 . . .	.20-.25	.36-.44	.36-.44	.34-.44	.32-.34
May 10-16 . . . . .	.13-.20	.35-.40	.34-.38	.32-.36	.16-.20
August 2-8 . . . . .	.20-.25	.30-.36	.30-.34	.28-.32	.12-.16
November 1-7 . . . .	.16-.20	.36-.40	.34-.38	.32-.36	.14-.18
December 6-12 . . .	.15-.20	.36-.40	.36-.38	.32-.36	.14-.20
<b>1988:</b>					
January 3-9 . . . . .	1.00-1.10	.48-.60	.48-.56	.44-.56	.22-.28
February 7-13 . . . .	.65-.75	1.20-1.25	1.15-1.20	1.00-1.15	.65-.75
February 21-27 . . .	.15	.30-.36	.28-.34	.26-.32	.14-.18
May 1-7 . . . . .	.25-.32	.40-.48	.38-.46	.36-.44	.22-.36
May 22-28 . . . . .	.12	.36-.40	.34-.38	.32-.36	.23-.28
August 7-13 . . . . .	.20	.30-.36	.28-.34	.28-.34	.08-.12
Oct. 30-Nov. 5 . . .	.13-.18	.38-.40	.36-.38	.24-.38	.12-.10
December 4-10 . . .	.36-.41	.38-.40	.38	.36	.14-.16

<sup>1</sup> Primarily Colombian but also Guatemalan, Peruvian, and Costa Rican. The shipping point is Miami, FL.

<sup>2</sup> Miami reports started to separate roses by red and assorted colors. The prices are the averages of these two categories.

Source: U.S. Department of Agriculture, Agricultural Marketing Service, *Marketing California Ornamental Crops, 1985, 1986, and 1987*, and various issues of *California Ornamental Crop Report, 1988*.

During the 4-year period, the overall supply of roses was up. Imports increased faster than domestic shipments. In each of the 4 years, prices, volume, and demand were highest around the major floral holidays.

Shipping point prices in California were relatively stable during the period. With production heavy for red varieties in 1985, hybrid tea roses (central coast) started the year at per-stem prices of \$0.60 to \$0.62 for 26-inch and longer stems and climbed to a brief peak of \$1.15 to \$1.18 per stem before Valentine's Day. Thereafter, prices took a customary downturn, ranging from \$0.40 to \$0.44 per stem around Easter and increasing to \$0.48 per stem before Mother's Day. In April and May, the demand for red roses declined and demand increased for colors such as white, pink, and lavender, which are popular for the wedding

season.<sup>1</sup> Growers cut back plants in June and prices were relatively stable during the summer months. Prices for prime hybrid tea roses (26 inches and longer) increased from \$0.32 per stem in August to between \$0.40 and \$0.48 per stem by the second week of December. The shipping point prices of imported roses (mainly Colombian) increased to \$1.10 around Valentine's Day. Colombian import prices were lowest in early November (table 3-6).

In 1985, prices for sweetheart roses (14 inches and longer) reached a yearly high of \$0.60 per stem on Valentine's Day. Like tea roses, they fell immediately afterwards, dropping to between

<sup>1</sup> *Marketing California Ornamental Crops 1985*, U.S. Department of Agriculture, Agricultural Market Service, p. 5.

\$0.14 and \$0.20 per stem in early March but climbing back up to \$0.30 per stem for Mother's Day. Prices in August were the lowest, ranging from \$0.10 to \$0.16 per stem, and came back up to between \$0.20 and \$0.24 per stem during the second week of December.

The shipping point prices in 1986 fluctuated in a way similar to that of 1985. Prices of all types of roses reached yearly highs around Valentine's Day. The prime tea roses achieved a record high, ranging from \$1.20 to \$1.35 per stem, mostly \$1.25.<sup>1</sup> Prices prior to Mother's Day were \$0.44 to \$0.48 per stem, almost the same as those in 1985. Each year, the prices moved along the same pattern. As is traditional, Valentine's Day shipping drew the highest prices of the year for roses. As shown in table 3-6, the shipping point prices increased slightly from Valentine's Day 1985 to Valentine's Day 1986.

In 1986, prices for sweetheart roses reached a record high of \$0.64 to \$0.75 per stem for Valentine's Day shipping. Like hybrid tea roses, sweetheart rose prices plunged to between \$0.10 and \$0.14 per stem after Easter, but recovered to between \$0.32 and \$0.38 per stem before Mother's Day. Prices for sweetheart roses remained low all summer, ranging from \$0.10 to \$0.18 per stem, and did not break the \$0.20 per stem mark until the last week of the year.

In 1987, most shipping point prices of roses were stable. As is the tradition, Valentine's Day shipping drew the highest prices of the year for roses. However, Valentine's Day prices were about the same as in 1986, making it the first time in at least 10 years that peak prices were not higher than those of the previous year.<sup>2</sup> Prices for prime hybrid tea roses started the year off at between \$0.48 and \$0.52 per stem and the early January 1987 prices were a little higher than January 1986 prices (table 3-6). The prices were also higher in November and December compared with those reported in the corresponding period of 1986.

Sweetheart rose prices started the year off at between \$0.16 and \$0.22 per stem for 14 inches and longer lengths, lower than in 1986, and rose to between \$0.65 and \$0.75 per stem for Valentine's Day shipping in 1987. Thereafter, prices dropped sharply, ranging between \$0.12 and \$0.20 per stem in March and part of April. Because Easter was close to Mother's Day this year, prices did not rebound until late April and reached between \$0.32 and \$0.34 per stem before Mother's Day. Summer trading was generally slow and prices were low, ranging from \$0.12 to

\$0.16 per stem. Trading was moderate during October and December and prices in December ranged between \$0.14 and \$0.24 per stem, with volume sales occasionally lower.

In January-August 1988, prices for hybrid tea roses were lower in three out of the six selected weeks compared with the corresponding weeks of 1987. On Valentine's Day 1988, most prime hybrid tea roses were sold at between \$1.20 and \$1.25 per stem, whereas sweetheart roses (14 inches and longer) were sold at between \$0.65 and \$0.75 per stem. The price for sweetheart roses dropped to \$0.08 per stem in August 1988. Sweetheart rose prices for imports from South America through Miami in 1988 were highest for Valentine's Day, costing between \$0.65 and \$0.75 per stem for 14 inches and longer red varieties. Prices were lowest in August, costing between \$0.08 and \$0.12 per stem.

On average, prices for imports from South America were 30 percent lower than California products during the whole sample period. According to a staff member of the New York State Agricultural Commission, imports of roses from Colombia increased substantially during the 3 years. Virtually all Colombian roses are imported via Miami. Abundant import supply in Miami might keep the shipping point prices at a relatively low level.

*Wholesale market prices.*—The two largest wholesale markets for roses in the United States are located in New York and San Francisco. During this investigation, the Commission used Philadelphia wholesale market prices in addition to those in the two other cities (New York and San Francisco) that were published by the U.S. Department of Agriculture. In general, the wholesale market prices varied in accordance with the shipping point prices over the sample period.

In the wholesale markets of San Francisco, New York, and Philadelphia, prices for both hybrid tea and sweetheart roses peaked around Valentine's Day and dropped to low points in the summer, especially in July. They started to rise again during September through December. However, the price differences in these three markets are moderate.

The San Francisco wholesale prices in most of the selected periods under investigation were lowest among the three wholesale markets, and the prices in Philadelphia were the highest, as shown in tables 3-7, 3-8, and 3-9. The lower prices in the San Francisco market reflect that city's location in a surplus production area and the fact that transportation charges from California growers to the San Francisco wholesale market are significantly less than the transportation charges that would be included in the Philadelphia or New York wholesale market prices. In the week of February 3-9, 1985, the highest wholesale prices per stem for prime hybrid tea roses in San Francisco, New York, and Philadelphia were<sup>3</sup> between

<sup>1</sup> *Marketing California Ornamental Crops 1986*, U.S. Department of Agriculture, Agricultural Market Service, p. 4.

<sup>2</sup> *Marketing California Ornamental Crops 1987*, U.S. Department of Agriculture, Agricultural Market Service, p. 4.

Table 3-7

Roses: San Francisco wholesale market prices, by types and length of stems, January 1985-December 1988

Period	(Per stem)			
	Hybrid tea roses			Sweetheart roses
	26" and longer	22" to 26"	18" to 22"	14" and longer
1985:				
January 6-12 .....	\$0.60-\$0.70	\$0.56-\$0.66	\$0.48-\$0.60	\$0.26-\$0.28
February 3-9 .....	1.00-1.20	.96-1.12	.92-1.04	.52-.60
February 17-23 .....	.72-.80	.67-.76	.64-.72	.36-.40
April 28-May 4 .....	.48	.40-.44	.36-.40	.24
May 12-18 .....	.40-.48	.38-.44	.36-.40	.24-.30
August 4-10 .....	.36-.44	.32-.42	.28-.40	.16-.20
November 3-9 .....	.40-.44	.36-.40	.32-.36	.18-.24
December 8-14 .....	.48-.52	.44-.48	.40-.44	.26-.28
1986:				
January 5-11 .....	.60-.64	.56-.60	.52-.56	.24-.30
February 2-8 .....	.88-.92	.84-.90	.80-.84	.42-.50
February 16-22 .....	.94-1.10	.90-1.06	.86-1.02	.36-.54
April 27-May 3 .....	.40-.44	.38-.40	.34-.36	.22-.26
May 11-17 .....	.40-.48	.38-.44	.26-.44	.24-.28
August 3-9 .....	.36-.40	.34-.38	.30-.32	.20-.24
November 2-8 .....	.40	.36-.38	.36	.18-.20
December 7-13 .....	.40-.44	.36-.40	.28-.30	.20-.24
1987:				
January 8-14 .....	.70-.76	.60-.72	.56-.70	.24-.32
February 1-7 .....	.88-.92	.80-.84	.80	.40
February 15-21 .....	.80	.72-.80	.64-.76	.32
April 26-May 2 .....	.40-.48	.36-.44	.32-.36	.20-.24
May 10-16 .....	.40-.44	.36-.40	.32-.36	.20-.26
August 2-8 .....	.40	.36	.32	.16-.20
November 1-7 .....	.40-.46	.38-.40	.32-.36	.20-.24
December 6-12 .....	.44-.52	.40-.44	.36-.40	.20-.24
1988:				
January 3-9 .....	.48-.60	.48-.58	.44-.56	.22-.28
February 7-13 .....	1.20-1.25	1.15-1.20	1.00-1.15	.65-.75
February 21-27 .....	.30-.36	.28-.34	.26-.32	.14-.18
May 1-7 .....	.40-.48	.38-.46	.36-.44	.22-.36
May 22-28 .....	.36-.40	.34-.38	.32-.36	.23-.28
August 7-13 .....	.30-.36	.28-.34	.28-.34	.08-.12
October 30-November 5 .....	.48-.52	.44-.48	.36-.42	.24-.28
December 4-10 .....	.48-.56	.44-.48	.36-.44	.20-.24

Source: U.S. Department of Agriculture, Agricultural Marketing Service, *Marketing California Ornamental Crops*, 1985, 1986, and 1987, and various issues of *San Francisco Wholesale Ornamental Crops Report*, 1988.



Table 3-8

Hybrid tea roses: Philadelphia wholesale market prices, by supply sources and length of stems, January 1985-December 1988

Period	(Per stem)					
	Pennsylvania		California		Colombia	
	26" and longer	18" to 22"	26" and longer	18" to 22"	26" and longer	18" to 22"
<b>1985:</b>						
January 6-12 .....	\$1.25-\$1.35	\$1.00-\$1.15	\$0.90-\$1.00	\$0.70-\$0.85	\$0.90-\$1.00	\$0.65-\$0.80
February 3-9 .....	2.25-2.35	2.05-2.25	1.15-1.50	1.00-1.25	1.25-1.50	1.00
February 17-23 ...	1.50-2.15	.90-1.65	1.75	1.50-1.75	1.25	.75-.85
April 28-May 4 ....	1.00-1.10	.75-1.10	.70-.80	.60	.75-.85	.60-.65
May 12-18 .....	1.00-1.10	.90-1.00	.50-.60	.45-.55	.50-.60	.40-.50
August 4-10 .....	.75-.80	.55-.65	.50-.60	.50-.60	.60-.65	.40-.50
November 3-9 .....	.80-.85	.50-.65	.55-.60	.45-.50	.50-.60	.35-.40
December 8-14 ...	1.00-1.05	.80-.85	.75-.80	.60-.65	.75-.85	.60
<b>1986:</b>						
January 5-11 .....	1.25-1.30	1.05-1.10	.85-.95	.70-.80	.90-1.00	.75-.85
February 2-8 .....	1.50-2.50	2.25-2.30	1.20-1.25	.90-1.00	.90-1.00	.65-.85
February 16-22 ...	1.10-1.65	.90-1.50	.80	.70	.75	.60
April 27-May 3 ....	.95-1.10	.75-.90	.60-.75	.50-.55	.60-.70	.40-.50
May 11-17 .....	1.00-1.25	.85-1.10	.70-.75	.55-.60	.60-.70	.40-.50
August 3-9 .....	.85-.90	.55-.80	.75-.85	.50-.60	.65-.70	.50-.60
November 2-8 .....	.85-.90	.65-.80	.60	.50-.60	.65	.40-.50
December 7-13 ...	1.00-1.10	.85-1.00	.60-.75	.50	.55-.65	.40-.50
<b>1987:</b>						
January 8-14 .....	1.00-1.20	.90-1.00	1.00	.85-1.00	1.00	.75
February 1-7 .....	1.50-2.55	1.40-1.90	1.25-1.50	1.00-1.50	.90-1.50	.75-1.00
February 15-21 ...	1.50-1.75	1.25-1.50	( <sup>1</sup> )	( <sup>1</sup> )	.75-.85	.60-.70
April 26-May 2 ....	1.15-1.30	.90-1.10	.65-.75	.60-.70	.60-.75	.40-.50
May 10-16 .....	1.00-1.20	.70-1.05	.65-.70	.60-.70	.60-.75	.40-.50
August 2-8 .....	.85-1.00	.60-.80	.60-.65	.40-.50	.45-.50	.30-.35
November 1-7 .....	.85-1.00	.60-.80	.70-.85	.40-.50	.60-.70	.40-.45
December 6-12 ...	.90-1.00	.65-.80	.70-.75	.45-.50	.60-.65	.40-.50
<b>1988:</b>						
January 3-9 .....	1.25-1.35	1.10-1.15	1.00	.90	.80-.85	.60-.65
February 7-13 .....	2.25	2.25-2.30	2.20-2.25	1.75-1.90	1.50-1.75	1.25-1.35
February 21-27 ...	1.25-1.50	1.00-1.30	.60-.70	.40-.50	.60-.70	.40-.50
May 1-7 .....	1.25-1.30	1.00-1.25	.70-.75	.50-.60	.60-.70	.40-.50
May 22-28 .....	1.25-1.30	1.00-1.25	.80-.85	.65-.70	.70-.75	.50-.55
August 7-13 .....	.80-1.00	.79-.80	.70	.50	.55-.60	.35-.40
Oct. 30-Nov. 5 ...	.80-.90	.70-.75	.70-.75	.50-.55	.60-.65	.40-.45
December 4-10 ...	.80-.90	.70-.75	.65-.70	.50-.55	.55-.60	.30-.40

<sup>1</sup> Not available.

Note.—All figures are Thursday prices.

Source: U.S. Department of Agriculture, Agricultural Market Service, *Philadelphia Ornamental Crops Wholesale Market Prices, 1985, 1986, and 1987*, and various issues of *Philadelphia Wholesale Ornamental Crops Report*, 1988.

Table 3-9

Hybrid tea roses: New York wholesale market prices, by supply sources and length of stems, January 1985-December 1988

Period	(Per stem)				
	Local <sup>1</sup>		California		Colombia
	26" and longer	18" to 22"	26" and longer	18" to 22"	various sizes
<b>1985:</b>					
January 6-12 .....	\$1.00-\$1.25	\$0.75-\$0.85	\$0.85-\$1.00	\$0.60-\$0.75	\$0.45-\$0.55
February 3-9 .....	1.50-1.75	1.50-1.75	1.25-1.50	.85-1.00	.65-.75
February 17-23 ....	1.00-1.25	.75-.85	.60-.75	.40-.50	.50-.60
April 28-May 4 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
May 12-18 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
August 4-10 .....	.60-.65	.40-.50	.50-.60	.30-.40	.24-.30
November 3-9 .....	.60-.65	.40-.50	.50-.60	.30-.40	.30-.35
December 8-14 ....	.65-.80	.50-.60	.60-.70	.40-.50	.30-.35
<b>1986:</b>					
January 5-11 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
February 2-8 .....	.85-1.00	.60-.75	.70-.80	.50-.60	.35-.40
February 16-22 ....	1.00-1.25	.60-.75	1.00-1.25	.60-.75	.40-.50
April 27-May 3 .....	.60-.75	.40-.50	.50-.60	.30-.40	.25-.30
May 11-17 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
August 3-9 .....	.45-.50	.30-.35	.40-.50	.30-.35	.25-.30
November 2-8 .....	.60-.75	.40-.50	.60-.75	.40-.50	.25-.30
December 7-13 ....	.60-.75	.40-.50	.60-.75	.40-.50	.20-.30
<b>1987:</b>					
January 8-14 .....	.85-1.00	.60-.75	.85-1.00	.60-.75	.50-.60
February 1-7 .....	.85-1.00	.60-.75	.85-1.00	.60-.75	.40-.50
February 15-21 ....	1.25-1.50	.75-1.00	1.00-1.25	.60-.75	.30-.40
April 26-May 2 .....	.50-.60	.35-.40	.45-.50	.25-.30	.20-.25
May 10-16 .....	.75-1.00	.50-.60	.60-.75	.40-.50	.20-.25
August 2-8 .....	.65-.75	.35-.40	.50-.60	.35-.40	.20-.30
November 1-7 .....	.75-.85	.40-.50	.50-.60	.25-.30	.25-.30
December 6-12 ....	.75-.85	.40-.50	.50-.60	.25-.30	.25-.30
<b>1988:</b>					
January 3-9 .....	1.00-1.25	.75-.85	.60-.70	.40-.50	.35-.40
February 7-13 .....	2.00-2.25	1.50-1.75	1.50-1.75	1.00-1.25	.60-.75
February 21-27 ....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
May 1-7 .....	1.00-1.25	.75-.85	1.00-1.25	.30-.40	.30-.50
May 22-28 .....	.75-.85	.50-.60	.50-.60	.30-.40	.15-.20
August 7-13 .....	.50-.60	.35-.40	.40-.50	.25-.30	.15-.20
Oct. 30-Nov. 5 ....	.55-.60	.55-.40	.50-.60	.30-.40	.20-.30
December 4-10 ....	.65-.70	.40-.50	.60-.70	.40-.45	.25-.40

<sup>1</sup> "Local" roses include those primarily grown in Long Island and Pennsylvania.

<sup>2</sup> Not available.

Note.—All figures are Thursday prices.

Source: U.S. Department of Agriculture, Agricultural Market Service, various issues of *New York Ornamental Crops Report*, 1985, 1986, 1987 and 1988.

\$1.00 and \$1.20, \$1.50 and \$1.75, and \$2.25 and \$2.35, respectively. The lowest prices per stem for the domestic hybrid tea roses (26 inches and longer) in each of the three markets during the sample period were recorded at \$0.75 to \$0.80 in Philadelphia (August 4-10, 1985), \$0.45 to \$0.50 in New York (August 3-9, 1986), and \$0.30 to \$0.36 in San Francisco (August 7-13, 1988).

Price differences between local and foreign products were also evaluated in two wholesale markets on the east coast. During the selected periods, Pennsylvania tea roses were usually sold at a higher price than California and Colombian roses in the Philadelphia wholesale market. For instance, during February 1-7, 1987, the wholesale prices per stem in the Philadelphia market for prime Pennsylvania, California, and Colombian roses were between \$1.50 and \$2.55, \$1.25 and \$1.50, and \$0.90 and \$1.50, respectively (table 3-8). The prices per stem of roses from the three different sources dropped to between \$0.85 and \$1.00, \$0.60 and \$0.65, and \$0.45 and \$0.50, respectively, during August 2-8, 1987. Compared with the Colombian roses, California roses were sold at higher prices in 22 out of the 30 periods in Philadelphia. Figures 3-1 and 3-2 illustrate these relationships for 1985 and 1988. About one-half of all of the roses sold in Philadelphia in 1988 were from Colombia. The other half were supplied mainly by other Latin American countries, Pennsylvania, Long Island, California, and New England.<sup>1</sup>

In the New York wholesale market, the price for Colombian roses was for all sizes. This, of course, is not comparable with those of California and local (primarily Long Island and Pennsylvania) roses, which are reported by different sizes. During the whole sample period, the price of local hybrid tea roses (26 inches or longer) were higher than, or equal to, those of California roses (table 3-9). Both the local and California prices per stem of roses dropped to the lowest levels (\$0.45 to \$0.50 and \$0.40 to \$0.50, respectively) during August 3-9, 1986, and reached the highest levels (\$2.00 to \$2.25 and \$1.50 to \$1.75, respectively), during February 7-13, 1988. Figures 3-3 and 3-4 compare the price levels for each of the 8 weeks during 1985 and 1988. As in the Philadelphia market, the market share of Colombian roses has increased in recent years. About 50 to 60 percent of all roses sold in New York were from Colombia.<sup>2</sup> Other suppliers of note were the Netherlands, as well as Long Island, Pennsylvania, and New England.

<sup>1</sup> Based on an interview by an ITC staff member with a representative of the Pennsylvania Department of Agriculture.

<sup>2</sup> Based on information provided by the New York State Department of Agriculture and Markets.

Changes in the shipping point price in California and changes in the San Francisco wholesale market were correlated, as shown in tables 3-6 and 3-7. Differences between the two price levels were small, suggesting that markups of wholesalers were small.<sup>3</sup> There are a few growers who are also wholesalers. For such growers, if demand in the shipping point is stronger than that in wholesale market, the shipping point price may be higher than the wholesale market price. This reflects the fact that at any given point in time, the U.S. market is composed of many local markets and supply and demand at those levels may be different. During February 2-8, 1986, for instance, the California shipping point price of prime tea roses was as high as \$1.25 per stem, whereas the San Francisco wholesale market price per stem of the same product was between \$0.88 and \$0.92.

### *Price trends based on questionnaire data*

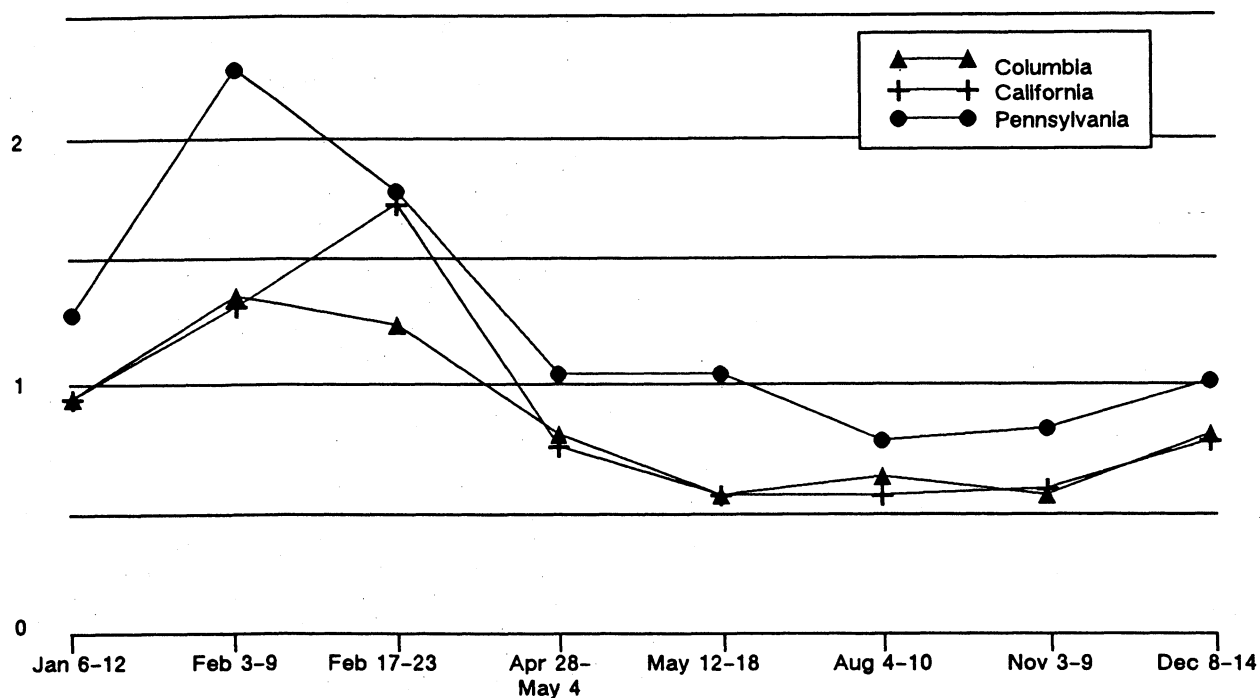
During this investigation, the Commission requested that U.S. rose growers, shippers, and importers provide data on their selling prices and the total number of stems sold to their customers for two representative hybrid tea rose products (red and nonred, 18 inches and longer) and one representative sweetheart rose product in three types of transactions (spot, standing order, and consignment sales), by 8 selected weeks in a year, during January 1985 to December 1988. All selling prices are weighted-average f.o.b. U.S. point-of-shipment prices, net of all discounts, allowances (including freight allowances), and U.S. inland freight to customers, any insurance costs, any commission or consignment fees, packaging changes (including box charges), and inspection charges, less the value of return products (credits). These are average prices charged in many different transactions and do not include all the charges required to bring the roses to the purchasers' locations. Such nationwide data have limitations when considering particular market areas, but they are useful for comparing overall trends in domestic growers', shippers', and importers' prices and reflect any discounting that may have occurred. In addition, they are useful for comparing price differences in the three types of sales. The net f.o.b. weighted selling prices of the three representative groups of roses, compiled from data reported by domestic growers, shippers, and importers, are shown in tables 3-10, 3-11, and 3-12.

*Red hybrid tea roses.*—All red hybrid tea roses that have 18-inch stems or longer are included in this category. During the sample period, domestic rose growers' selling prices of red hybrid tea roses sold to their customers generally in

<sup>3</sup> The average wholesale market price for the same type of rose in San Francisco was \$0.54 per stem, which was 3.8 percent higher than the California shipping point price for U.S. grown prime hybrid tea roses.

**Figure 3-1**  
Philadelphia wholesale market prices, by sources, by selected weeks, 1985

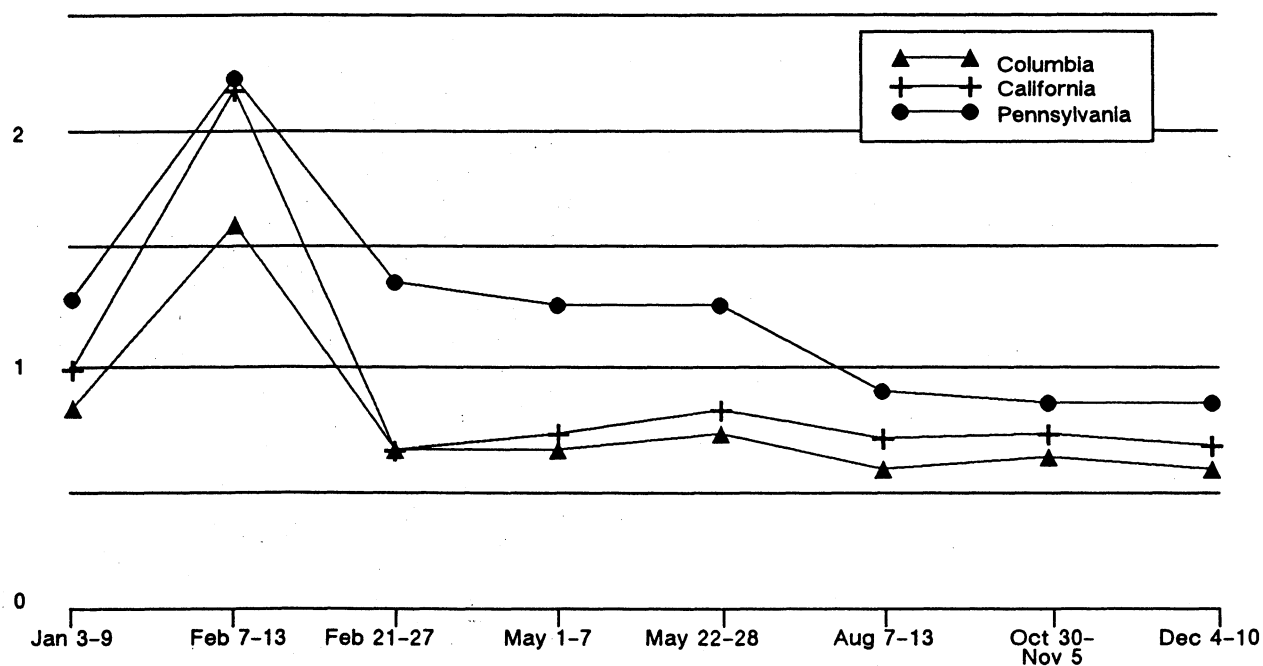
Prices



Source: U.S. Department of Agriculture, Agricultural Market Service, *Philadelphia Ornamental Crops Wholesale Market Prices, 1985.*

**Figure 3-2**  
Philadelphia wholesale market prices, by sources, by selected weeks, 1988

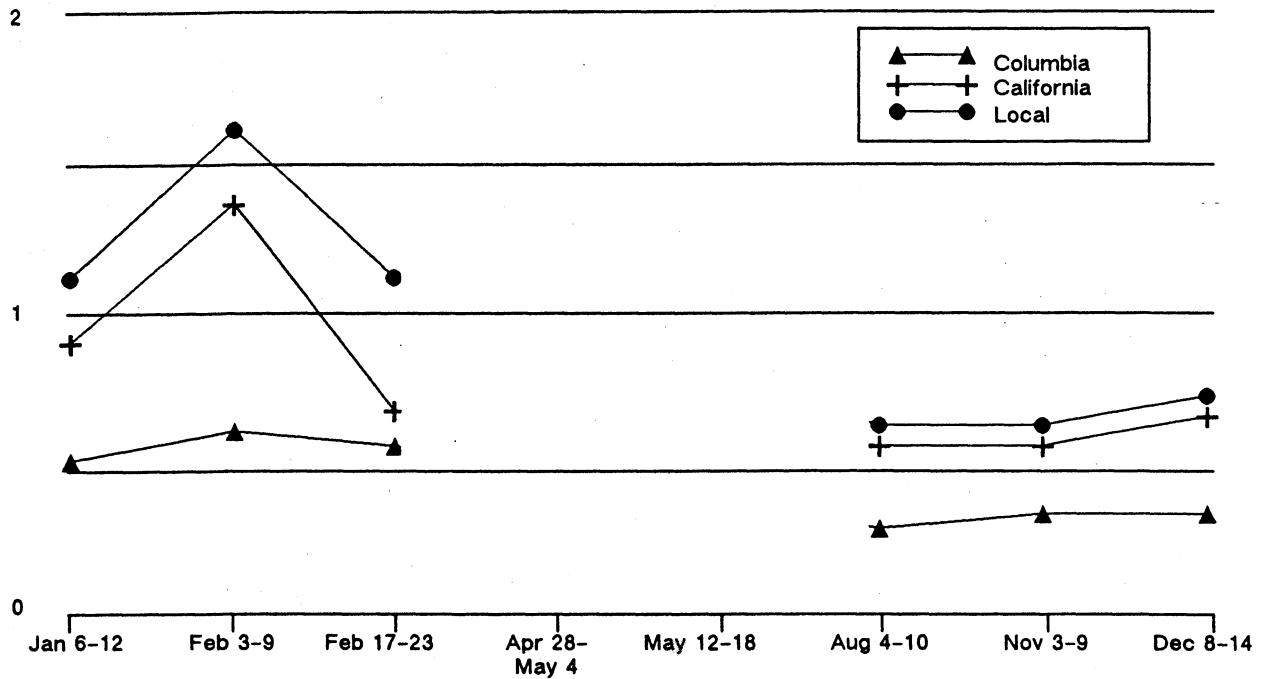
Prices



Source: U.S. Department of Agriculture, Agricultural Market Service, *Philadelphia Ornamental Crops Wholesale Market Prices, 1988.*

**Figure 3-3**  
New York wholesale market prices, by sources, by selected weeks, 1985

Prices



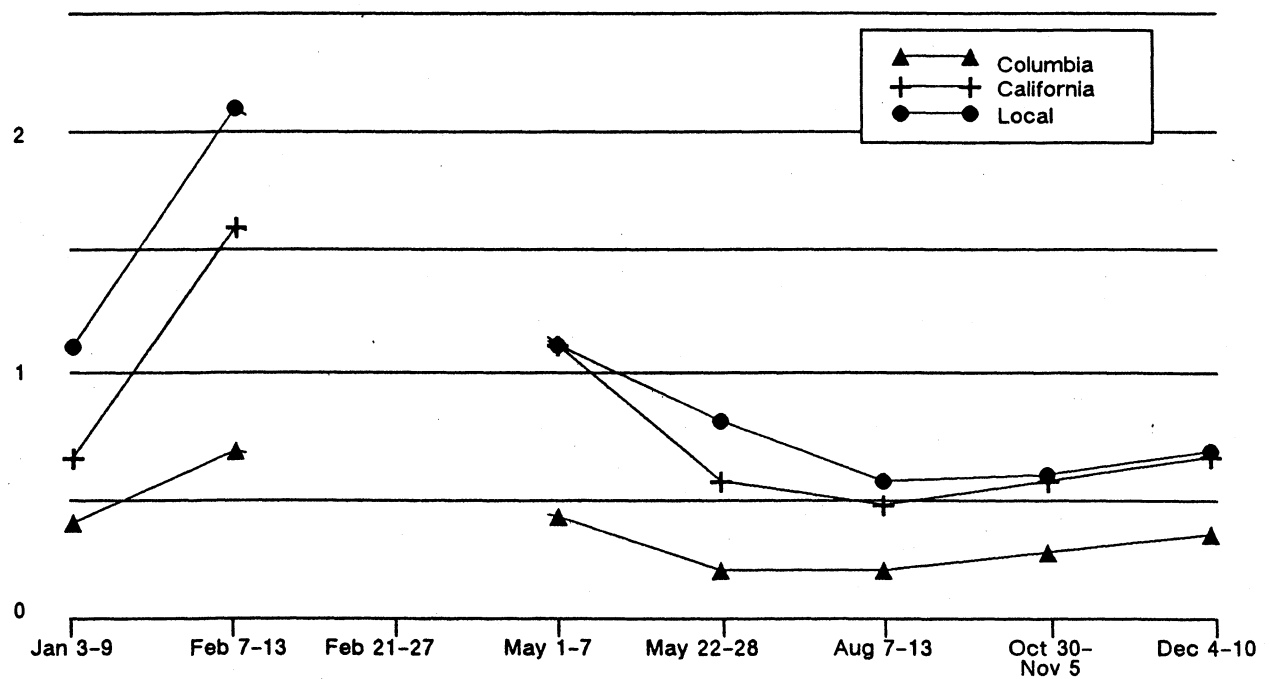
Note.—Data for April 28-May 4 and May 12-18 are not available.

Source: U.S. Department of Agriculture, Agricultural Market Service, *New York Ornamental Crops Report*, 1985.

**Figure 3-4**

New York wholesale market prices, by sources, by selected weeks, 1988

Prices



Note.—Data for Feb. 21-27 are not available.

Source: U.S. Department of Agriculture, Agricultural Market Service, *New York Ornamental Crops Report*, 1988.

Table 3-10

Red hybrid tea roses, 18 inches and over: Net f.o.b. weighted-average shipping point prices per stem, by sources and by types of sales, January 1985-December 1988

Period	Standing order sales			Spot sales			Consignment sales <sup>1</sup>	
	Growers	Importers	Shippers	Growers	Importers	Shippers	Growers	Importers
<b>1985:</b>								
January 6-12 . . . .	\$0.67	\$0.37	\$0.58	\$0.58	\$0.48	\$0.58	\$0.53	\$0.59
February 3-9 . . . .	1.10	.38	.92	1.23	.94	.99	.78	.97
February 17-23 . .	.66	.37	.73	.70	.42	.55	.67	.44
April 28-May 4 . . .	.52	.38	.45	.42	.29	.37	.60	.35
May 12-18 . . . . .	.50	.34	.42	.40	.20	.34	.42	.22
August 4-10 . . . .	.44	.35	.35	.29	.19	.26	.33	.19
November 3-9 . . .	.49	.37	.30	.34	.20	.29	.39	.29
December 8-14 . .	.56	.35	.47	.42	.36	.43	.40	.34
<b>1986:</b>								
January 5-11 . . . .	.75	.36	.58	.59	.89	.57	.51	.60
February 2-8 . . . .	1.07	.37	1.05	1.14	.89	.92	.78	.93
February 16-22 . .	.91	.36	.67	.70	.23	.69	.65	.18
April 27-May 3 . . .	.52	.39	.42	.40	.23	.40	.48	.24
May 11-17 . . . . .	.53	.37	.42	.43	.33	.33	.46	.23
August 3-9 . . . . .	.45	.35	.38	.30	.30	.29	.32	.29
November 2-8 . . .	.53	.36	.42	.36	.18	.41	.41	.21
December 7-13 . .	.56	.37	.45	.39	.26	.42	.39	.25
<b>1987:</b>								
January 8-14 . . . .	.68	.39	.57	.59	.31	.62	.65	.36
February 1-7 . . . .	1.05	.40	1.03	1.11	.74	.99	.83	.55
February 15-21 . .	.90	.37	.63	.65	.45	.53	.69	.20
April 26-May 2 . . .	.54	.37	.43	.45	.21	.38	.50	.21
May 10-16 . . . . .	.56	.37	.35	.42	.17	.32	.42	.21
August 2-8 . . . . .	.43	.37	.32	.28	.21	.30	.32	.17
November 1-7 . . .	.51	.39	.36	.37	.17	.32	.41	.19
December 6-12 . .	.56	.38	.40	.42	.21	.37	.40	.20
<b>1988:</b>								
January 3-9 . . . . .	.64	.38	.51	.57	.43	.47	.61	.41
February 7-13 . . .	1.18	.38	1.00	1.25	.60	.85	1.15	.62
February 21-27 . .	.60	.37	.44	.60	.14	.37	.51	.20
May 1-7 . . . . .	.59	.40	.41	.46	.18	.37	.65	.27
May 22-28 . . . . .	.53	.40	.36	.44	.16	.31	.49	.19
August 7-13 . . . .	.45	.38	.34	.33	.19	.30	.34	.25
Oct. 30-Nov. 5 . .	.51	.38	.39	.34	.18	.37	.48	.27
December 4-10 . .	.59	.39	.45	.39	.31	.43	.49	.33

<sup>1</sup> No shippers information available on consignment sales.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 3-11

Nonred hybrid tea roses, 18 inches and over: Net f.o.b. weighted-average shipping point prices per stem, by sources and by types of sales, January 1985-December 1988

Period	Standing order sales			Spot sales			Consignment sales <sup>1</sup>	
	Growers	Importers	Shippers	Growers	Importers	Shippers	Growers	Importers
1985:								
January 6-12 . . . .	\$0.53	\$0.40	\$0.59	\$0.54	\$0.43	\$0.73	\$0.45	\$0.55
February 3-9 . . . .	.83	.38	.92	1.01	.82	1.04	.72	.31
February 17-23 . .	.63	.40	.75	.68	.37	.75	.61	.29
April 28-May 4 . . .	.46	.39	.45	.43	.26	.41	.45	.33
May 12-18 . . . . .	.54	.39	.44	.42	.26	.39	.42	.15
August 4-10 . . . .	.42	.38	.36	.31	.21	.31	.31	.12
November 3-9 . . .	.45	.38	.34	.36	.18	.32	.35	.15
December 8-14 . .	.50	.39	.49	.42	.30	.45	.36	.19
1986:								
January 5-11 . . . .	.59	.39	.59	.57	.38	.58	.46	.46
February 2-8 . . . .	.93	.39	1.06	1.05	.72	1.05	.76	.85
February 16-22 . .	.77	.39	.60	.66	.24	.71	.52	.23
April 27-May 3 . . .	.48	.38	.37	.40	.26	.38	.45	.23
May 11-17 . . . . .	.55	.39	.36	.42	.28	.36	.43	.25
August 3-9 . . . . .	.43	.35	.33	.33	.29	.28	.27	.31
November 2-8 . . .	.51	.36	.42	.38	.19	.41	.35	.11
December 7-13 . .	.55	.38	.41	.41	.20	.40	.37	.23
1987:								
January 8-14 . . . .	.60	.38	.59	.57	.38	.67	.48	.43
February 1-7 . . . .	.95	.39	1.04	1.06	.68	.91	.82	.60
February 15-21 . .	.72	.39	.59	.60	.23	.54	.56	.28
April 26-May 2 . . .	.51	.38	.44	.44	.22	.42	.42	.15
May 10-16 . . . . .	.50	.38	.36	.42	.21	.33	.36	.24
August 2-8 . . . . .	.45	.36	.36	.32	.19	.31	.24	.18
November 1-7 . . .	.85	.37	.37	.39	.23	.35	.36	.17
December 6-12 . .	.54	.37	.43	.44	.21	.39	.30	.17
1988:								
January 3-9 . . . . .	.59	.36	.55	.54	.35	.49	.51	.47
February 7-13 . . .	1.04	.38	.97	1.09	.58	.84	1.00	.56
February 21-27 . .	.54	.37	.36	.87	.18	.39	.44	.17
May 1-7 . . . . .	.58	.38	.45	.44	.26	.41	.49	.27
May 22-28 . . . . .	.53	.38	.40	.40	.21	.34	.37	.17
August 7-13 . . . .	.45	.36	.36	.35	.21	.33	.26	.35
Oct. 30-Nov. 5 . .	.49	.37	.45	.38	.21	.42	.41	.10
December 4-10 . .	.57	.37	.45	.39	.34	.40	.39	.14

<sup>1</sup> No shippers information available on consignment sales.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 3-12

Sweetheart roses, 14 inches and over: Net f.o.b. weighted-average shipping point prices per stem, by sources and by types of sales, January 1985-December 1988

Period	Standing order sales			Spot sales			Consignment sales <sup>1</sup>	
	Growers	Importers	Shippers	Growers	Importers	Shippers	Growers	Importers
1985:								
January 6-12 ....	\$0.36	\$0.20	\$0.32	\$0.27	\$0.23	\$0.29	\$0.37	\$0.25
February 3-9 ....	.51	.21	.49	.58	.66	.55	.53	( <sup>2</sup> )
February 17-23 ..	.41	.20	.33	.36	.19	.27	.42	.31
April 28-May 4 ...	.31	.20	.28	.29	.32	.26	.54	( <sup>2</sup> )
May 12-18 .....	.35	.18	.27	.29	.30	.17	.39	( <sup>2</sup> )
August 4-10 .....	.24	.18	.19	.13	.14	.13	.25	( <sup>2</sup> )
November 3-9 .....	.27	.20	.22	.16	.17	.17	.26	( <sup>2</sup> )
December 8-14 ..	.28	.20	.25	.20	.22	.22	.29	( <sup>2</sup> )
1986:								
January 5-11 ....	.39	.21	.29	.26	.15	.30	.32	( <sup>2</sup> )
February 2-8 ....	.52	.19	.45	.59	.57	.48	.49	( <sup>2</sup> )
February 16-22 ..	.49	.20	.34	.37	.16	.31	.43	( <sup>2</sup> )
April 27-May 3 ...	.33	.21	.30	.30	.19	.27	.38	( <sup>2</sup> )
May 11-17 .....	.37	.18	.31	.29	.19	.21	.38	( <sup>2</sup> )
August 3-9 .....	.25	.18	.20	.15	.17	.14	.22	( <sup>2</sup> )
November 2-8 ....	.29	.20	.17	.19	.13	.15	.28	( <sup>2</sup> )
December 7-13 ...	.30	.21	.30	.22	.14	.19	.28	( <sup>2</sup> )
1987:								
January 8-14 ....	.41	.19	.31	.30	.15	.35	.33	( <sup>2</sup> )
February 1-7 ....	.53	.19	.47	.62	.53	.51	.52	( <sup>2</sup> )
February 15-21 ..	.50	.20	.28	.35	.28	.27	.51	( <sup>2</sup> )
April 26-May 2 ...	.38	.21	.35	.32	.14	.27	.41	( <sup>2</sup> )
May 10-16 .....	.39	.19	.28	.28	.19	.23	.36	( <sup>2</sup> )
August 2-8 .....	.27	.19	.14	.15	.12	.13	.24	( <sup>2</sup> )
November 1-7 ....	.31	.20	.15	.20	.13	.16	.30	( <sup>2</sup> )
December 6-12 ..	.32	.20	.16	.22	.14	.18	.26	( <sup>2</sup> )
1988:								
January 3-9 .....	.38	.19	.30	.27	.18	.26	.34	( <sup>2</sup> )
February 7-13 ...	.62	.18	.45	.68	.59	.49	.82	( <sup>2</sup> )
February 21-27 ..	.36	.19	.21	.24	.12	.18	.35	( <sup>2</sup> )
May 1-7 .....	.39	.19	.27	.35	.26	.26	.57	( <sup>2</sup> )
May 22-28 .....	.38	.19	.24	.30	.18	.23	.40	( <sup>2</sup> )
August 7-13 .....	.28	.18	.15	.15	.13	.17	.27	( <sup>2</sup> )
Oct. 30-Nov. 5 ...	.30	.19	.17	.18	.15	.19	.28	( <sup>2</sup> )
December 4-10 ..	.34	.20	.18	.26	.13	.21	.30	( <sup>2</sup> )

<sup>1</sup> No shippers information available on consignment sales.

<sup>2</sup> Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.



creased during the February holiday (Valentine's Day) period and then fell to a low level in August. This price trend is usually true for all three types of sales, with a few exceptions that occurred in standing order sales.

In standing order sales, the prices (weighted-average) of red hybrid tea roses fluctuated and responded to the seasonal changes in demand, with the exception of the importers' price. The average growers' price fluctuated over a wide range in the sample period, from \$0.43 (Aug. 2-8, 1987), to \$1.18 per stem (Feb. 7-13, 1988). The importers' price was very stable, ranging from \$0.34 (May 12-18, 1985), to \$0.40 per stem (May 1-7, 1988), as shown in table 3-10. The price charged by shippers<sup>1</sup> fluctuated from \$0.30 (Nov. 3-9, 1985), to \$1.05 per stem (Feb. 2-8, 1986). Compared with the importers and the shippers, the growers usually charged higher prices for standing order sales. During most of the sample weeks, the importer's price was the lowest price among the three types of suppliers.

In spot sales, the prices of red hybrid tea roses charged by growers, importers, and shippers reached their peaks in early February each year. The lowest growers' price was \$0.28 (Aug. 2-8, 1987), and the highest price was \$1.25 per stem (Feb. 7-13, 1988). The importers' price ranged from \$0.14 (Feb. 21-27, 1988), to \$0.94 per stem (Feb. 3-9, 1985). The shippers' price fluctuated from \$0.26 (Aug. 4-10, 1985), to \$0.99 per stem (Feb. 1-7, 1985). In most of the 32 sample weeks, the growers' price again was the highest, and the importers' price was the lowest. Both importers' and shippers' prices did not reach over a dollar per stem level in their spot sales.

In consignment sales, both growers' and importers' prices, generally have followed the seasonal pattern and reached their peaks in early February each year. In 28 out of the 32 sample weeks, the growers' price was higher than the importers' price. The prices charged by growers and importers for their consignment sales were under a dollar per stem in all sample weeks, except during the week of February 7-13, 1988 when the growers charged \$1.15 per stem for nonred hybrid tea roses. No data are available on the shippers' prices for consignment sales.

According to data from the questionnaires, the average price of red hybrid tea roses, 18 inches and over, experienced seasonal changes during the entire sample period. The most stable price was the importers' price for standing order sales. In most of the sample weeks, the growers'

<sup>1</sup> The net return to the grower (price) for roses sold through a shipper will usually be lower than the price received by a grower who sells his own production for the same variety and quality of rose. The difference between the two prices is equivalent to the administrative and selling cost that a grower who markets his own production incurs and is part of his selling price versus a grower who markets his production through a shipper.

prices were the highest and the importers' prices were the lowest for all three types of sales. For example, in spot sales the average growers' and importers' prices for the sample periods were \$0.54 and \$0.35 per stem, respectively. Growers charged more for their standing order sales and less for consignment sales.

*Nonred hybrid tea roses.*—All nonred (white and colored) hybrid tea roses, having 18-inch stems or longer are included in this category. As demand for red hybrid tea roses is relatively higher than that for nonred hybrid tea roses in the U.S. market, consumption and prices of red hybrid tea roses are usually higher than those of nonred hybrid tea roses. Prices for nonred hybrid tea roses, though generally lower, are more stable because they are used more for weddings and other special events, the occurrences of which are relatively even throughout the year.

In standing order sales, the growers' price changed with the seasonal pattern, ranging from \$0.42 (Aug. 4-10, 1985), to \$1.04 per stem (Feb. 7-13, 1988), as shown in table 3-11. Only one out of the 32 sample weeks (Feb. 7-13, 1988), did the growers' price reach over a dollar per stem. Each year the growers' price of nonred hybrid tea roses reached its peak in early February. Unlike the growers' price, the importers' price fluctuated within a narrower band from \$0.35 (Aug. 3-9, 1986), to \$0.40 per stem (Jan. 6-12, and Feb. 17-23, 1985). In 20 out of the 32 sample weeks, the importers' price was either \$0.38 or \$0.39 per stem. The shippers' price ranged from \$0.33 (Aug. 3-9, 1986), to \$1.06 per stem (Feb. 2-8, 1986). In standing order sales, the shippers' price was lower than the growers' price in 26 out of the 32 sample weeks. The importers' price was the lowest in most of the sample weeks.

In spot sales, the growers' price ranged from \$0.31 (Aug. 4-10, 1985), to \$1.09 per stem (Feb. 7-13, 1988), and reached over a dollar per stem in early February of each year in the 4-year sample period. The importers' price fluctuated from \$0.18 (Feb. 21-27, 1988), to \$0.82 per stem (Feb. 3-9, 1985), whereas, the shippers' price fluctuated from \$0.28 (Aug. 3-9, 1986), to \$1.05 per stem (Feb. 2-8, 1986). Compared with the growers' price, the shippers' price again was lower in most of the sample weeks. For all sample weeks, the importers' price was usually the lowest.

In consignment sales, the growers' price fluctuated from \$0.24 (Aug. 2-8, 1987), to \$1.00 per stem (Feb. 7-13, 1988). It was usually higher than the importers' price. As was the case with the red hybrid tea roses, the shippers sold their roses either through standing order or spot sales. They did not report any consignment sales.

In all three types of sales, the importers' price for nonred hybrid tea roses was usually the lowest. For standing order sales and spot sales of the

same product, the shippers' price was lower than the growers' price in most of the sample weeks. For the entire sample period, the lowest price of nonred hybrid tea roses was reported at \$0.10 (the importers' price for consignment sales during October 30 to November 5, 1988), and the highest price, \$1.09 per stem, was achieved by the growers for their spot sales during February 7-13, 1988.

*Sweetheart roses.*—All sweetheart roses having a 14-inch stem or longer are included in the category. Usually, the prices of sweetheart roses are lower than those of red hybrid tea roses or hybrid nonred tea roses. Demand for sweetheart roses was relatively stable over the year, compared with the demand for red hybrid tea roses. As a result, the prices of sweetheart roses fluctuated more moderately than the prices of hybrid tea roses. For the whole sample period, the prices of sweetheart roses, in spite of the types of sales, has never reached over a dollar per stem.

In standing order sales, the growers' price ranged from \$0.24 (Aug. 4-10, 1985), to \$0.62 per stem (Feb. 7-13, 1988), as shown in table 3-12. The importers' price fluctuated from \$0.18 (May 12-18, 1985), to \$0.21 per stem (Jan. 5-11, 1986). The shippers' price fluctuated from \$0.14 (Aug. 2-8, 1987), to \$0.49 per stem (Feb. 3-9, 1985). The importers' price was usually the lowest. The growers' price was always higher than or equal to the shippers' price during the sample weeks.

In spot sales, the growers' price ranged from \$0.13 (Aug. 4-10, 1985), to \$0.68 per stem (Feb. 7-13, 1988). Unlike standing order sales, the importers' price fluctuated widely from \$0.12 (Aug. 2-8, 1987), to \$0.66 per stem (Feb. 3-9, 1985), in respond to market demand. The shippers' price was relatively stable, ranging from \$0.13 (Aug. 4-10, 1985), to \$0.55 per stem (Feb. 3-9, 1985). Like the importers' price, the shippers' price did not reach over \$0.40 per stem except in each of the early weeks of February during 1985-88. In most of the sample weeks, the importers' price was the lowest and the growers' price was the highest.

In response to Commission questionnaires, only one importer reported consignment sales of sweetheart roses. The growers' price for consignment sales fluctuated from \$0.22 (Aug. 3-9,

1986), to \$0.82 per stem (Feb. 7-13, 1988). In most of the sample weeks, the growers charged a higher price for their standing order sales and a lower price for their spot sales. Shippers did not report their consignment sales, if any.

A few conclusions may be derived from data submitted in response to questionnaires of the Commission. For all three types of roses, the growers' prices were usually the highest and the importers' prices were the lowest. The higher growers' price reveals U.S. intermediate consumers' preference (wholesalers and retail florists), even though the reasons why are not clear. Colors, freshness, and lifespan are among possible reasons. The price data also suggest that U.S. consumers prefer red roses to nonred roses. On average, the price of red hybrid tea roses was higher than that of nonred hybrid tea roses. In standing order sales, for instance, growers charged, on average, 7.4 percent more for red roses than they charged for nonred roses. For both red and nonred hybrid tea roses, growers charged more for their standing order sales than for spot sales. Usually, the prices of sweetheart roses were lower than those of prime red and nonred hybrid tea roses for all three types of sales.

## Financial performance

### Overall operations

Usable data were received from 99 rose growers on their total operations in 1988. These firms accounted for about 53 percent of total U.S. production of fresh cut roses in 1988. Out of 99 growers, 73 growers operated their business as a corporation, whereas 10 and 16 growers operated their business as a partnership and proprietorship, respectively. Aggregated data by year and regions are presented in table 3-13. Total sales of all products increased by 19 percent, from \$128.6 million in 1985 to \$152.6 million in 1988. Sales of fresh cut roses, which are more than 64 percent of total sales in each year, climbed from \$89.9 million in 1985 to \$99.0 million in 1988, representing an increase of 10 percent. The share of total sales reported in the questionnaires for each region, as well as the percentage increase or decrease in their share of sales of fresh cut roses from 1985 to 1988 is shown in the following tabulation:

Region	Sales of fresh cut roses		Share of total sales		Percentage change in share of each region
	1985	1988	1985	1988	
	(1,000 dollars)		— (Percent)—		
California .....	39,113	39,653	44	40	-4
Colorado .....	7,519	9,032	8	9	1
Other States west of the Mississippi .....	8,896	11,117	10	11	1
States east of the Mississippi .....	34,374	39,243	38	40	2
Total .....	89,902	99,044	100	100	0

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Table 3-13  
Income-and-loss experience of U.S. growers<sup>1</sup> on the overall operations of their establishments growing fresh cut roses, by regions, 1985-88

	Sales of fresh cut roses <sup>2</sup>	Sales of green- houses products	Total sales	Other Income <sup>3</sup>	Total sales and other Income	Total growing and operating expenses	Net Income before Income taxes	Officers' or partners' salaries	Net income before taxes and officers' or partners' salaries	Ratio of	
										net income before income taxes to total sales	net income before income taxes and officers' or partners' salaries to total sales
— 1,000 dollars —											
1985:											
California .....	39,113	8,323	47,436	911	48,347	45,596	2,751	2,009	4,760	5.8	10.0
Colorado .....	7,519	7,028	14,547	563	15,110	14,372	738	402	1,140	5.1	7.8
Other States west of the Mississippi .....	8,896	2,176	11,072	27	11,099	10,823	276	515	791	2.5	7.1
States east of the Mississippi .....	34,374	21,179	55,553	1,064	56,617	55,598	1,019	3,222	4,241	1.8	7.6
Total .....	89,902	38,706	128,608	2,565	131,173	126,389	4,784	6,148	10,932	3.7	8.5
1986:											
California .....	40,687	9,366	50,053	982	51,035	46,514	4,521	1,925	6,446	9.0	12.9
Colorado .....	8,058	8,152	16,210	81	16,291	15,581	710	492	1,202	4.4	7.4
Other States west of the Mississippi .....	9,976	2,010	11,986	88	12,074	11,442	632	585	1,217	5.3	10.2
States east of the Mississippi .....	35,648	24,035	59,683	1,197	60,880	59,610	1,270	3,609	4,879	2.1	8.2
Total .....	94,369	43,563	137,932	2,348	140,280	133,147	7,133	6,611	13,714	5.2	9.9
1987:											
California .....	41,056	9,219	50,275	1,542	51,817	46,896	4,921	2,418	7,339	9.8	14.6
Colorado .....	8,648	8,028	16,676	112	16,788	16,019	769	527	1,296	4.6	7.8
Other States west of the Mississippi .....	10,606	4,124	14,730	56	14,786	14,620	166	825	991	1.1	6.7
States east of the Mississippi .....	36,974	26,147	63,121	1,336	64,457	62,784	1,673	3,759	5,432	2.7	8.6
Total .....	97,284	47,518	144,802	3,046	147,848	140,319	7,529	7,529	15,058	5.2	10.4
1988:											
California .....	39,653	9,267	48,920	925	49,845	47,025	2,820	2,014	4,834	5.8	9.9
Colorado .....	9,032	9,012	18,044	87	18,131	16,906	1,225	578	1,803	6.8	10.0
Other States west of the Mississippi .....	11,117	4,885	16,002	189	16,191	15,928	263	830	1,093	1.6	6.8
States east of the Mississippi .....	39,242	30,384	69,626	1,765	71,391	70,514	877	4,967	5,844	1.3	8.4
Total .....	99,044	53,548	152,592	2,966	155,558	150,373	5,185	8,389	13,574	3.4	8.9

<sup>1</sup> The number of U.S. growers reporting data were 97 in 1985, 98 in 1986 and 1987, and 99 in 1988.

<sup>2</sup> Two growers started their operations while one grower stopped its operations in 1986. One grower entered the industry in 1988.

<sup>3</sup> Some growers reported gross sales and other growers reported net sales (less commissions paid).

Consists of interest income, sales of supplies, capital gains, plant royalties, gasoline credits, and refunds, etc.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Aggregate net income before income taxes increased by 57 percent from \$4.8 million in 1985 to \$7.5 million in 1987 before declining to \$5.2 million in 1988. Average pre-tax income margins rose from 3.7 percent in 1985 to 5.2 percent in 1986 and 1987, and then dropped to 3.4 percent in 1988.

Average income margins before deductions of income taxes and officers or partners' salaries are much higher than the pre-tax income margins, but it followed a trend similar to that of the average pre-tax income margins during 1985-88.

Selected individual growing and overall operating expenses for 1985 through 1988, expressed in percentages of total growing and overall operating expenses, are shown in the following tabulation (in percent):

Items	1985	1986	1987	1988
Purchases for resale .....	8.9	10.6	11.3	12.5
Hired labor and wages .....	26.9	27.2	27.2	27.0
Plants, bulbs, seeds, fertilizers, lime, chemicals, and other supplies .....	11.5	11.4	12.0	11.7
Gasoline, oil, fuel, and other utilities .....	15.3	12.8	11.3	11.3
Depreciation .....	6.2	6.5	6.3	6.0
Repairs and maintenance .....	2.2	2.5	2.5	2.4
Taxes and Insurance .....	4.6	5.1	5.1	5.2
Interest expense .....	2.1	2.1	1.9	1.7
Other expenses .....	22.3	21.8	22.4	22.2
Total growing and operating expenses .....	100.0	100.0	100.0	100.0

The number of firms reporting losses before income taxes are summarized below:

Years	Number of firms reporting losses	Percent of total reporting firms
1985 .....	29	29.9
1986 .....	27	27.6
1987 .....	30	30.6
1988 .....	31	31.3

### Rose-growing operations

Ninety-five U.S. growers provided income-and-loss data on their rose growing operations, by regions, which are presented in table 3-14. These firms accounted for about 52 percent of total U.S. production of fresh cut roses in 1988.

The total sale of fresh cut roses increased by 10 percent from \$87.0 million in 1985 to \$95.3 million in 1988. During the same period, the total growing and operating expenses rose by 11

percent. Net income before income taxes increased from \$4.0 million in 1985 to \$5.1 million in 1987 before declining to \$3.3 million in 1988.

The aggregate pre-tax net income margins for all regions rose from 4.6 percent in 1985 to 5.6 percent in 1986 and then declined to 5.4 percent in 1987 and 3.5 percent in 1988. The aggregate net income margins before deductions of income taxes and officers' or partners' salaries increased from 9.8 percent in 1985 to 11.4 percent in 1987 and then dropped to 9.5 percent in 1988. The profitability trend for rose-growing operations is generally the same as shown by overall operations data presented in table 3-13.

Each region reflected a different pre-tax income margins trend during 1985-88. California growers, which sales accounted for more than 40 percent of total fresh cut rose sales, experienced a similar profitability trend as shown by the aggregate data. Growers located in States east of the Mississippi River and representing about 36 to 38 percent of total sales of fresh cut roses, reported the lowest pre-tax income margins among all the regions. The east of the Mississippi River region's pre-tax income margins rose from 0.9 percent in 1985 to 2.7 percent in 1987 before declining to 0.6 percent in 1988. Colorado growers, accounting for about 9 percent of total sales, reported declining pre-tax income margins of 7.1 percent in 1986 from 8.1 percent in 1985, rising to 10.9 percent in 1987 before dropping to 8.9 percent in 1988. Growers located in other States west of the Mississippi River and accounting for about 11 percent of total sales, experienced rising profitability in 1986, declining in 1987, and increasing again in 1988.

Selected individual growing and operating expenses for rose-growing operations for 1985 through 1988, expressed in percentages of total growing and operating expenses, are shown as follows:

Items	1985	1986	1987	1988
Hired labor and wages ....	30.0	30.8	31.3	31.6
Plants, bulbs, seeds, fertilizers, lime, chemicals, and other supplies .....	10.9	10.4	11.1	10.1
Gasoline, oil, fuel, and other utilities .....	19.0	16.0	14.6	15.0
Depreciation .....	7.5	7.8	7.7	7.6
Repairs and maintenance .....	2.7	3.7	3.7	3.5
Taxes and Insurance .....	5.0	5.7	5.9	6.2
Interest expense .....	2.4	2.5	2.2	2.1
Other expenses .....	22.5	23.1	23.5	23.9
Total growing and operating expenses .....	100.0	100.0	100.0	100.0

Table 3-14

Selected financial data of U.S. growers<sup>1</sup> of fresh cut roses only, by regions, 1985-88

Year and region	Sales of fresh cut roses <sup>2</sup>	Total growing and operating expenses	Net income before income taxes	Officers' or partners' salaries	Net income before income taxes and officers' or partners' salaries	Ratio of net income before income taxes to total sales	Ratio of net income before income taxes and officers' salaries to total sales
	1,000 dollars					Percent	
1985:							
California .....	39,098	36,478	2,620	1,681	4,301	6.7	11.0
Colorado .....	7,404	6,802	602	185	787	8.1	10.6
Other States west of the Mississippi .....	8,896	8,404	492	337	829	5.5	9.3
States east of the Mississippi .....	31,574	31,299	275	2,347	2,622	0.9	8.3
Total .....	86,972	82,983	3,989	4,550	8,539	4.6	9.8
1986:							
California .....	40,592	37,349	3,243	1,685	4,928	8.0	12.1
Colorado .....	7,940	7,376	564	188	752	7.1	9.5
Other States west of the Mississippi .....	9,976	9,222	754	414	1,168	7.6	11.7
States east of the Mississippi .....	32,730	32,191	539	2,605	3,144	1.6	9.6
Total .....	91,238	86,138	5,100	4,892	9,992	5.6	11.0
1987:							
California .....	40,958	38,031	2,927	2,074	5,001	7.1	12.2
Colorado .....	8,529	7,599	930	194	1,124	10.9	13.2
Other States west of the Mississippi .....	10,305	9,966	339	565	904	3.3	8.8
States east of the Mississippi .....	33,864	32,966	898	2,720	3,618	2.7	10.7
Total .....	93,656	88,562	5,094	5,553	10,647	5.4	11.4
1988:							
California .....	39,582	37,705	1,877	1,683	3,560	4.7	9.0
Colorado .....	8,909	8,112	797	206	1,003	8.9	11.3
Other States west of the Mississippi .....	10,784	10,349	435	625	1,060	4.0	9.8
States east of the Mississippi .....	36,041	35,824	217	3,231	3,448	0.6	9.6
Total .....	95,316	91,990	3,326	5,745	9,071	3.5	9.5

<sup>1</sup> The number of U.S. growers reporting data were 91 in 1985, 94 in 1986 and 1987, and 95 in 1988. Four growers started their rose growing operations while one grower stopped its operation in 1986. One grower entered the industry in 1988.

<sup>2</sup> Some growers reported gross sales and other growers reported net sales (less commissions paid).

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The number of firms reporting losses before income taxes are summarized as follows:

Years	Number of firms reporting losses	Percent of total reporting firms
1985 .....	31	34.1
1986 .....	31	33.0
1987 .....	33	35.1
1988 .....	36	37.9

### *Investment in greenhouses*

The Commission requested the original cost, book value, and appraised or tax-assessed value of greenhouses as of January 1 for 1985 through 1988. Usable data were received from only 49 firms for the original cost and book value of such investments. All these firms did not provide appraised or tax-assessed value of their greenhouses. Many firms, which provided the tax-assessed value of their greenhouses, reported such values lower than their original cost.

The original cost and the book value of greenhouses are presented in the following tabulation (in thousands of dollars):

Items	1985	1986	1987	1988
Original cost .....	53,967	58,331	63,886	67,630
Book value .....	20,195	22,180	21,265	21,857

### *Capital expenditures and research and development expenses*

Sixty-five firms furnished data for their capital expenditures related to the U.S. production of fresh cut roses and 19 firms supplied data relative to their research and development expenses for fresh cut roses production. These data are presented in the following tabulation (in thousands of dollars):

Items	1985	1986	1987	1988
Capital expenditures .....	8,106	8,305	7,857	5,862
Research and development expenses .....	153	150	163	162

## Chapter 4

### The World Market

Data are not available on world production or consumption of fresh cut roses. It is believed that the EC, the United States, Japan, Canada, and Switzerland are the major consumers of greenhouse grown fresh cut roses. The EC, the United States, and Colombia are believed to be the principal world producers of fresh cut roses. Other important producers of roses are Japan, Israel, numerous Central and South American countries, and several African nations.

Production of fresh cut roses in the major consuming countries during 1985-87 was estimated to have ranged from 3.5 billion to 4 billion stems, annually. Table 4-1 shows production, exports, imports, and apparent consumption in the major producing countries. The EC is believed to be, by far, the principal world producer, accounting for over 50 percent of total production of fresh cut roses in the major consuming countries. The EC is also the leading world consumer of fresh cut roses.

Many countries also produce field grown roses for local consumption as fresh cut roses. West Germany and Spain are believed to be the principal producers of such roses in the EC. Such roses are usually of lower quality than greenhouse roses and are more subject to plant diseases and pests. As a result, almost all of these roses are intended for local consumption and few actually enter the world market.

Tables 4-2 and 4-3 show imports during 1981, and 1985-87, by the major consuming countries in terms of quantity and value, respectively. Japan has been excluded from the table, because consumption there consists almost entirely of domestic production and reliable import data are not available. Quantity data in table 4-2 was available only in metric tons for most European countries; however, this table, together with the value data in table 4-2, is a useful indicator of the overall trends in the world market.

As both tables indicate, West Germany was by far the largest importer of fresh cut roses in the world during 1981-87. With a population of about 60 million, West Germany imported nearly 822 million stems in 1987, which was over three times that of the United States, with 267 million stems imported and over four times the level in population. Per capita consumption in West Germany appears to have increased during the period, as indicated by the 53-percent increase in imports during 1981-87, from 538 million stems. The average unit value of imported fresh cut roses in West Germany remained stable at approximately 20 to 21 cents per stem throughout the period.

Other countries also experienced an accelerated increase in fresh cut rose imports during the period. U.S. imports nearly quadrupled during 1981-87, rising from 67.5 million stems in 1981 to 267 million in 1987. The average unit value of fresh cut rose imports in the United States was slightly less than that in West Germany, with a value of 19 cents per stem in 1981 and 18 cents per stem in 1987. France's imports also increased at a dramatic rate of over 300 percent, rising from 672 metric tons in 1981 to 2,983 metric tons in 1981 (conservative estimates place the number of fresh cut rose stems between 30,000 and 36,000 per metric ton).

The suppliers listed were chosen for their relatively high level of exports to all of the recipient countries as a whole. Among those selected, the Netherlands accounted for, by far, the largest share of total exports to the recipient countries. The Netherlands was also the largest supplier to each country individually, except for the United States and Canada. In those cases, Colombia was the leading supplier to the United States, and the United States was the leading supplier to Canada.

The total value of imports to the seven largest importing countries was \$300.5 million in 1987, an increase of about 120 percent since 1981. Throughout the period, the Netherlands maintained its large marketing share of nearly 63 percent, despite increased pressure from new and developing competitors such as Colombia and Israel. In 1987, the total value of exports from the Netherlands (\$189.3 million) was significantly larger than that of the second largest exporter, Colombia (\$41.2 million). In 1981, Israel had been the second largest exporter in terms of value in the group but was replaced by Colombia as early as 1985. The majority of Colombia's exports, however, are intended for the U.S. market, whereas the preponderance of Israel's exports are destined for the EC.

### The European Community's Market

#### General

The EC is the world's leading producer of fresh cut flowers, in general, and the leading producer of fresh cut roses, in particular. Data are not available on the EC's total output of fresh cut roses, but it is believed to be nearly 3 billion stems annually in recent years. The Netherlands, West Germany, and Spain are the principal producers of fresh cut roses within the EC.

The EC also accounts for the bulk of world trade in fresh cut roses. As table 4-4 indicates, EC imports of fresh cut roses, including intra-EC trade, increased by about 30 percent during 1985-87, from 31,792 metric tons in 1985 to 41,337 metric tons in 1987. Suppliers within the

**Table 4-1**  
**Profile of major world producers of fresh cut roses, 1987**

Country	Production	Exports	Imports	Apparent consumption	Area in production
	Million stems				Hectares
Netherlands .....	1,605	1,089	58	574	805
Spain <sup>2</sup> .....	603	( <sup>3</sup> )	( <sup>3</sup> )	204	757
West Germany .....	350	1	822	1,171	( <sup>3</sup> )
Colombia .....	276	267	( <sup>3</sup> )	9	283
Japan <sup>5</sup> .....	309	( <sup>6</sup> )	( <sup>6</sup> )	309	( <sup>3</sup> )
United States .....	515	6	268	777	374

<sup>1</sup> Includes Intra-EC trade.

<sup>2</sup> Includes the Canary Islands.

<sup>3</sup> Not available.

<sup>4</sup> Estimated by the Foreign Agricultural Service.

<sup>5</sup> Data are for 1986.

<sup>6</sup> Negligible.

Source: Data are compiled from numerous Foreign Agricultural Service and U.S. Department of State Foreign Service telegrams.

**Table 4-2**  
**Imports of roses into major consuming countries, by principal sources, 1981, and 1985-87**

Source	United States	Canada	Netherlands	West Germany	France	United Kingdom	Switzerland	Total
	1,000 stems			Metric tons				
1981:								
Netherlands ....	3,230	597	( <sup>1</sup> )	451,814	374	247	414	( <sup>2</sup> )
Spain <sup>3</sup> .....	221	17	3,770	18,458	86	12	404	( <sup>2</sup> )
Israel .....	6,172	11	28,354	59,083	93	486	376	( <sup>2</sup> )
Colombia .....	52,931	1,183	( <sup>4</sup> )	1,121	( <sup>4</sup> )	( <sup>4</sup> )	8	( <sup>2</sup> )
United States ...	( <sup>1</sup> )	6,247	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>2</sup> )
All other .....	4,972	251	1,423	7,103	280	28	295	( <sup>2</sup> )
Total .....	67,526	8,306	33,547	537,579	672	773	1,497	( <sup>2</sup> )
1985:								
Netherlands ....	6,092	5,097	( <sup>1</sup> )	621,066	1,388	920	1,091	( <sup>2</sup> )
Spain <sup>3</sup> .....	509	394	10,391	26,269	32	38	466	( <sup>2</sup> )
Israel .....	6,531	1,965	17,902	40,790	100	504	185	( <sup>2</sup> )
Colombia .....	133,252	1,684	52	1,591	4	2	81	( <sup>2</sup> )
United States ...	( <sup>1</sup> )	6,694	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>2</sup> )
All other .....	22,269	2,666	3,040	18,330	389	40	335	( <sup>2</sup> )
Total .....	168,653	18,500	31,333	708,046	1,913	1,504	2,159	( <sup>2</sup> )
1986:								
Netherlands ....	5,755	4,033	( <sup>1</sup> )	629,316	1,886	889	1,300	( <sup>2</sup> )
Spain <sup>3</sup> .....	563	304	10,226	28,811	26	37	444	( <sup>2</sup> )
Israel .....	3,549	859	30,838	45,861	73	440	168	( <sup>2</sup> )
Colombia .....	168,660	1,515	455	3,943	7	13	97	( <sup>2</sup> )
United States ...	( <sup>1</sup> )	6,813	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>2</sup> )
All other .....	33,454	5,271	5,481	17,354	468	51	371	( <sup>2</sup> )
Total .....	211,981	18,795	47,000	725,285	2,460	1,430	2,380	( <sup>2</sup> )
1987:								
Netherlands ....	5,110	2,093	( <sup>1</sup> )	693,212	2,174	1,287	1,455	( <sup>2</sup> )
Spain <sup>3</sup> .....	799	231	8,427	52,818	31	35	471	( <sup>2</sup> )
Israel .....	1,543	505	38,895	46,547	139	498	156	( <sup>2</sup> )
Colombia .....	206,990	2,044	1,511	6,900	21	57	125	( <sup>2</sup> )
United States ...	( <sup>1</sup> )	4,730	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>2</sup> )
All other .....	52,479	3,883	9,037	22,439	637	42	471	( <sup>2</sup> )
Total .....	266,921	13,486	57,870	821,916	2,983	1,919	2,678	( <sup>2</sup> )

<sup>1</sup> Not applicable.

<sup>2</sup> Total figures not applicable due to variations in units (stems v. metric tons).

<sup>3</sup> Data for Spain includes the Canary Islands. A small percentage of imports may be included in "All other."

<sup>4</sup> Data included in "All other."

Source: United States—Compiled from official statistics of the U.S. Department of Commerce.  
 Canada—Statistics Canada, External Trade Division, *Imports by commodities and Imports by countries* (Ottawa).  
 Switzerland—*Statistique annuelle du commerce exterieur de la Suisse* (Berne).  
 Netherlands—*Maandstatistiek van de buitenlandse handel per goederensoort* (The Hague).  
 West Germany, United Kingdom, and France—*Eurostatistics*, Nimex 060301 and 060351 (Luxembourg).



Table 4-3

## Imports of roses into major consuming countries, by principal sources, 1981, and 1985-87

(In thousands of dollars)

Source	United States	Canada	Netherlands	West Germany	France	United Kingdom	Switzerland	Total
<b>1981:</b>								
Netherlands ....	833	130	( <sup>1</sup> )	76,570	2,385	2,188	4,111	86,217
Spain <sup>2</sup> .....	26	3	477	2,499	493	93	4,038	7,629
Israel .....	320	3	4,592	5,513	360	4,912	2,566	18,266
Colombia .....	11,078	266	2	228	( <sup>3</sup> )	2	44	11,620
United States ...	( <sup>1</sup> )	1,496	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	1,496
All other .....	843	61	222	6,028	809	49	4,574	12,584
Total .....	13,100	1,959	5,291	90,838	4,047	7,244	15,333	137,812
<b>1985:</b>								
Netherlands ....	1,782	1,105	( <sup>1</sup> )	79,954	4,353	5,641	10,080	102,915
Spain <sup>2</sup> .....	133	78	1,020	2,069	270	228	3,569	7,367
Israel .....	1,104	266	2,719	5,498	266	3,871	1,286	15,010
Colombia .....	35,383	389	15	284	25	15	537	36,648
United States ...	( <sup>1</sup> )	1,546	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	1,546
All other .....	3,974	519	508	3,835	1,939	210	4,162	15,146
Total .....	42,375	3,903	4,262	91,640	6,853	9,965	19,634	178,632
<b>1986:</b>								
Netherlands ....	1,974	896	( <sup>1</sup> )	110,264	9,575	7,160	15,089	144,958
Spain <sup>2</sup> .....	142	51	1,177	3,436	190	256	4,127	9,379
Israel .....	567	137	4,478	7,983	298	4,516	1,647	19,626
Colombia .....	37,619	372	124	899	58	98	651	39,821
United States ...	( <sup>1</sup> )	1,580	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	1,580
All other .....	6,129	1,210	1,151	4,492	3,164	327	6,365	22,838
Total .....	46,431	4,246	6,930	127,074	13,285	12,357	27,879	238,202
<b>1987:</b>								
Netherlands ....	1,950	672	( <sup>1</sup> )	144,419	11,667	10,478	20,086	189,272
Spain <sup>2</sup> .....	138	48	1,111	4,778	255	248	4,800	11,378
Israel .....	312	109	7,923	9,142	619	6,130	1,978	26,213
Colombia .....	37,344	540	260	1,626	143	446	878	41,237
United States ...	( <sup>1</sup> )	1,348	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	1,348
All other .....	8,422	1,333	1,542	5,689	4,910	336	8,792	31,024
Total .....	48,168	4,050	10,836	165,654	17,594	17,638	36,534	300,474

<sup>1</sup> Not applicable.<sup>2</sup> Data for Spain includes the Canary Islands. A small percentage of imports may be included in "All other."<sup>3</sup> Data included in "All other."Note.—Value data were converted into dollars according to the following exchange rates (*International Financial Statistics*, Washington, D.C., 1988):

	CAN\$	f	DM	FF	£	SwF
1981 .....	\$ US 1 = 1.1989	2.4952	2.2600	5.4346	0.4931	1.9642
1985 .....	\$ US 1 = 1.3655	3.3226	2.9440	8.9852	0.7714	2.4571
1986 .....	\$ US 1 = 1.3895	2.4560	2.1715	6.9261	0.6816	1.7989
1987 .....	\$ US 1 = 1.3260	2.0291	1.7974	6.0107	0.6101	1.4912

Source: United States—Compiled from official statistics of the U.S. Department of Commerce.  
 Canada—Statistics Canada, External Trade Division, *Imports by commodities and Imports by countries* (Ottawa).  
 Switzerland—*Statistique annuelle du commerce exterieur de la Suisse* (Berne).  
 Netherlands—*Maandstatistiek van de buitenlandse handel per goederensoort* (The Hague).  
 West Germany, United Kingdom, and France—*Eurostatistics*, Nimex 060301 and 060351 (Luxembourg).

Table 4-4

## EC Imports of fresh cut roses, by principal sources, 1985-87

Source	West Germany	France	United Kingdom	Belgium- Luxembourg	Nether- lands	All Other	Total
Quantity (metric tons)							
1985:							
Intra-EC .....	23,753	1,441	952	1,200	64	583	27,993
Israel .....	1,241	100	504	11	488	73	2,417
Canary Is .....	508	24	36	0	203	30	801
Morocco .....	6	321	0	0	32	4	363
All other .....	143	27	12	0	21	15	218
Total .....	25,651	1,913	1,504	1,211	808	705	31,792
1986:							
Intra-EC .....	25,152	1,925	911	1,003	141	892	30,024
Israel .....	1,301	73	440	5	804	63	2,686
Canary Is .....	481	22	26	0	182	34	745
Morocco .....	11	416	2	1	45	1	476
All other .....	377	24	51	0	84	46	582
Total .....	27,322	2,460	1,430	1,009	1,256	1,036	34,513
1987:							
Intra-EC .....	28,329	2,241	1,317	1,768	82	1,301	35,038
Israel .....	1,382	139	498	5	1,109	61	3,194
Canary Is .....	715	31	35	0	177	464	1,422
Morocco .....	16	524	1	0	29	6	576
All other .....	597	48	68	0	247	147	1,107
Total .....	31,039	2,983	1,919	1,773	1,644	1,979	41,337
Value (1,000 U.S. dollars)							
1985:							
Intra-EC .....	82,463	4,609	5,812	3,572	287	3,900	100,643
Israel .....	5,498	266	3,871	58	2,719	359	12,771
Canary Is .....	2,578	154	219	0	936	171	4,058
Morocco .....	31	1,680	0	2	157	20	1,890
All other .....	1,070	144	63	7	163	157	1,604
Total .....	91,640	6,853	9,965	3,639	4,262	4,607	120,966
1986:							
Intra-EC .....	113,730	9,833	7,285	4,286	764	6,841	142,739
Israel .....	7,983	298	4,516	46	4,478	497	17,818
Canary Is .....	3,120	166	214	0	985	211	4,696
Morocco .....	87	2,835	9	5	289	3	3,228
All other .....	2,154	153	333	5	414	261	3,320
Total .....	127,074	13,285	12,357	4,342	6,930	7,813	171,801
1987:							
Intra-EC .....	148,003	12,216	10,759	5,688	501	9,231	186,398
Israel .....	9,142	619	6,130	53	7,924	544	24,412
Canary Is .....	4,779	255	248	0	1,111	2,631	9,024
Morocco .....	142	4,236	3	1	142	82	4,606
All other .....	3,588	284	497	2	1,160	771	6,302
Total .....	165,654	17,610	17,637	5,745	10,838	13,258	230,742

Note.—Because of rounding, figures may not add to the totals shown.

Source: Data compiled from Eurostatistics, 1985-87.

EC, however, and the Netherlands in particular, accounted for most of these imports. Israel was the largest nonmember supplier of fresh cut roses to the EC, followed by the Canary Islands and Morocco. Both Israel and the Canary Islands received preferential duty treatment for at least part of the period.

Although the majority of the EC's production is intended for the EC market itself, the EC is also a major world exporter of fresh cut roses. As shown in table 4-5, extra-EC exports of fresh cut roses increased from 3,048 metric tons in 1985 to 3,187 metric tons in 1987. The Netherlands accounted for approximately 92 percent of total extra-EC exports during the period. Other European countries are important markets for EC-produced roses. Switzerland, Austria, and Sweden are the primary markets in Europe, whereas the United States is the primary non-European market.

### *Customs treatment*

Imports of fresh cut roses into the EC are covered by a dual tariff of 24 percent ad valorem during the summer growing season (June 1 to Oct. 31) and 17 percent ad valorem during the winter growing season (Nov. 1 to May 31). Imported fresh cut roses from African, Caribbean, and Pacific Basin (ACP) countries and overseas countries and territories associated with the EC (see app. D for more detail) and least developed countries (LDC) are eligible for duty-free entry. Preferential duty treatment was also granted to Cyprus, Israel, and Jordan on December 21, 1987. The preferential duty treatment for large-flowered roses from Israel was revoked in January 1989. (See app. E. for additional detail.)

Shipments of fresh cut roses to the EC must be accompanied by a phytosanitary certificate issued by the plant protection service from the importing country. In addition, imported fresh cut roses may require an import license. There are no quantitative limitations on imports of fresh cut roses.

## **Foreign Industries**

### *The Dutch Industry*

The Netherlands is the world's largest producer of fresh cut flowers and is the world's leading producer of fresh cut roses. The major rose-growing ranges are located near Amsterdam and The Hague. All fresh cut roses in the Netherlands are produced in greenhouses. The area devoted to rose production increased from 758 hectares in 1985 to 830 hectares in 1988, representing an increase of 9 percent. The number of producers of fresh cut roses remained

relatively stable over the period totaling 981 in 1988. Most rose producers also produce other floricultural crops. Consumption of fresh cut roses in the Netherlands was estimated at 574 million stems in 1987, up from 474 million stems in 1985.

*Production.*—The production of roses in the Netherlands increased from 1.4 billion stems in 1985 to 1.8 billion stems in 1988 (table 4-6). The production of small-flowered roses (the equivalent of sweetheart roses in the United States) increased from 906 million stems in 1985 to 1,189 million stems in 1988. Production of large-flowered roses (primarily hybrid tea varieties) increased over the same period from 472 million to 508 million stems. Analysis of varieties sold at the Netherlands auction houses in 1985 shows that nonred roses were the predominant varieties preferred by the European market. Pink varieties accounted for 55 percent of the sales; red varieties, 17 percent; orange varieties, 12 percent; yellow varieties, 7 percent; and all other varieties, 8 percent.<sup>1</sup>

*Auctions.*—Nearly all of the Netherlands' rose production is sold through auctions. The Netherlands does not have wholesale markets like those found in most other countries. Growers usually supply their entire production to an auction. The auction sells and guarantees payment (usually within 7 days) to the grower who pays a commission between 4.7 and 8 percent of the sales price. The auctions, of which there are 12, have offices for wholesale, export, highway transportation, and airline companies. Many buyers have offices and repacking facilities in the auction building complex, enabling them to repack flowers and to prepare shipments to the specific requirements of customers throughout the world.<sup>2</sup>

*Exports.*—The Netherlands is the largest exporter of fresh cut roses to all countries, including the EC itself, but is only the second largest exporter to countries outside of the EC after Colombia. Exports from the Netherlands increased from 935 million stems in 1985 to 1.1 billion stems in 1987, or by 16 percent. EC member countries account for the majority of the Netherlands export sales. In 1987, such exports totaled 961 million blooms, or 88 percent of the total. Switzerland, Austria, and the United States were the principal non-EC export markets during the period.

The summer marketing period (June 1–Oct. 31) has become the most important selling period for the Netherlands rose industry. The following tabulation (compiled from official statistics of the Netherlands) shows the destination of Dutch rose shipments during 1985–87 and illustrates that the

<sup>1</sup> *Floricultural Products*, p. 156.

<sup>2</sup> *Floricultural Products*, p. 149.

Table 4-5

EC exports of fresh cut roses to major consuming countries, 1985-87

Source	Intra-EC	Extra-EC					Total	Grand total
		Switzer-land	Austria	Sweden	United States	All other		
		Quantity (metric tons) <sup>1</sup>						
1985:								
Netherlands . . . .	25,660	891	619	354	459	522	2,846	28,506
Spain . . . . .	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
France . . . . .	24	78	0	0	0	3	81	105
Greece . . . . .	30	8	8	0	1	1	18	48
All other . . . . .	75	91	11	0	0	1	103	178
Total . . . . .	25,789	1,069	638	354	460	527	3,048	28,837
1986:								
Netherlands . . . .	28,016	691	667	393	428	415	2,594	30,610
Spain . . . . .	74	86	0	7	3	1	97	171
France . . . . .	28	75	0	0	1	1	77	105
Greece . . . . .	44	11	11	4	0	4	30	74
All other . . . . .	49	39	3	1	0	1	44	93
Total . . . . .	28,211	902	681	405	432	422	2,842	31,053
1987:								
Netherlands . . . .	32,518	828	899	467	338	386	2,918	35,436
Spain . . . . .	75	82	0	9	9	3	103	178
France . . . . .	29	101	0	0	4	3	108	137
Greece . . . . .	30	13	18	0	2	0	33	63
All other . . . . .	78	10	7	3	0	5	25	103
Total . . . . .	32,730	1,034	924	479	353	397	3,187	35,917
Value (1,000 U.S. dollars)								
1985:								
Netherlands . . . .	104,637	5,931	4,066	3,953	3,869	6,579	24,398	129,035
Spain . . . . .	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
France . . . . .	172	1,018	5	0	3	20	1,046	1,218
Greece . . . . .	76	56	44	0	5	5	110	186
All other . . . . .	326	978	49	6	0	10	1,043	1,369
Total . . . . .	105,211	7,983	4,164	3,959	3,877	6,614	26,597	131,808
1986:								
Netherlands . . . .	146,975	6,591	5,552	5,922	4,081	6,948	29,095	176,070
Spain . . . . .	299	946	0	104	9	5	1,064	1,363
France . . . . .	211	1,260	6	0	10	6	1,282	1,493
Greece . . . . .	328	107	105	54	4	32	302	630
All other . . . . .	335	665	35	6	0	22	728	1,063
Total . . . . .	148,148	9,569	5,698	6,086	4,104	7,013	32,471	180,619
1987:								
Netherlands . . . .	193,783	9,498	8,567	7,750	3,885	7,524	37,224	231,007
Spain . . . . .	539	1,010	2	131	49	14	1,206	1,745
France . . . . .	354	1,790	1	0	54	31	1,876	2,230
Greece . . . . .	629	177	268	0	26	34	505	1,134
All other . . . . .	530	115	73	29	3	21	241	771
Total . . . . .	195,835	12,590	8,911	7,910	4,017	7,624	41,052	236,887

<sup>1</sup> Estimated number of stems per metric ton is 30,000 to 36,000.<sup>2</sup> Data not available. Spain was not a member of the EC in 1985.

Note.—Because of rounding, figures may not add to the totals shown.

Source: Data compiled from *Eurostatistics*, 1985-87.

Table 4-6

## Production of fresh cut roses in the Netherlands, by types, 1985-88

(Million stems)

Type	1985	1986	1987	1988
Small flowered (sweetheart types) .....	906	1,000	1,121	1,189
Large flowered (hybrid tea types) .....	472	489	484	508
Total .....	1,378	1,489	1,605	1,797

Source: U.S. Department of State Telegram 409,662 and Product Board for Ornamental Horticultural Products.

summer marketing period accounted for 52 percent of export sales in 1987:

Period	EC member countries (1,000 stems)	Non-EC member countries (1,000 stems)	Total (1,000 stems)
1985:			
June 1-Oct. 31 ...	410,935	52,250	463,185
Nov. 1-May 31 ...	402,638	69,489	472,127
Total .....	813,573	121,739	935,312
1986:			
June 1-Oct. 31 ..	446,142	53,175	499,317
Nov. 1-May 31 ...	424,926	61,661	486,587
Total .....	871,068	114,836	985,904
1987:			
June 1-Oct. 31 ...	505,256	61,737	566,993
Nov. 1-May 31 ...	455,489	66,391	521,880
Total .....	960,745	128,128	1,088,873

*Imports.*—The Netherlands' imports of fresh cut roses from both EC member and non-EC member sources increased during 1985-87, as shown in the following tabulation (compiled from official statistics of the Netherlands):

Period	EC member countries (1,000 stems)	Non-EC member countries (1,000 stems)	Total (1,000 stems)
1985:			
June 1-Oct. 31 ...	179	1,241	1,420
Nov. 1-May 31 ...	1,332	28,581	29,913
Total .....	1,511	29,822	31,333
1986:			
June 1-Oct. 31 ...	360	1,515	1,875
Nov. 1-May 31 ...	4,152	40,933	45,125
Total .....	4,512	42,448	47,000
1987:			
June 1-Oct. 31 ...	460	2,236	2,696
Nov. 1-May 31 ...	2,190	52,985	55,175
Total .....	2,650	55,221	57,871

Imports during the June 1 to October 31 period increased from 1.4 million to 2.7 million stems. The Canary Islands<sup>1</sup> and Israel were the only suppliers during this period. Imports during the November 1 to May 31 period increased from 29.9 million to 55.2 million stems. The principal suppliers during this period were also Israel and the Canary Islands. In 1987, these two sources accounted for 69 percent and 13 percent, respectively, of the imports. Other suppliers of note were Zimbabwe, Colombia, Ecuador, and West Germany.

*The Spanish Industry*

Spain, including the Canary Islands, is the second largest producer of fresh cut roses in the EC and the second largest exporter of roses to both EC and non-EC markets. Spanish consumption of fresh cut roses was estimated at 204 million stems in 1988 and is expected to increase rapidly in the future.<sup>2</sup> Domestic consumption consists primarily of long-stemmed roses.

*Production.*—Production of fresh cut roses in Spain, including the Canary Islands, totaled 603 million stems in 1987, up 90 percent from 316 million stems produced in 1986, as shown in the following tabulation:

Item	1985	1986	1987
Production (million stems) ....	328.2	316.0	603.1
Area in production (hectares) .....	578	519	757

Similarly, the areas in production increased dramatically from 1985 to 1987 ranging from a low of 519 hectares in 1986 to a high of 757 hectares in 1987.

*Exports.*—During 1985-87, Spain's exports of fresh cut roses increased by 25 percent in terms of volume, from 1,711 metric tons to 2,140 tons.<sup>3</sup> Other EC member countries accounted for over one-half of Spain's exports in 1987. Switzerland was the next to the largest market, accounting for

<sup>1</sup> For customs duty purposes, the Canary Islands is not considered a member of the EC.

<sup>2</sup> FAS telegram 88-409662.

<sup>3</sup> Data are not available for Spain's exports in terms of stems or value.

over 25 percent of the volume. It is believed that short-stemmed rose varieties accounted for the majority of the exports.

**Imports.**—Data on Spain's imports of fresh cut roses are very limited. According to information supplied by the U.S. Agricultural Attach in Madrid, Spain's imports of fresh cut roses totaled 1.3 metric tons in 1985, 3.8 metric tons in 1986, and 7 metric tons in 1987. The main suppliers in 1987 were Mexico and the Netherlands.

### *The West German Industry*

West Germany is the world's largest importer of floricultural products and the world's leading market for fresh cut flowers. West Germany is also the world's largest importer of fresh cut roses and is believed to be the world's largest consumer of roses. It is estimated that West Germany's consumption of roses totaled 1.1 billion stems in 1985.

**Production and consumption.**—Data on West Germany's production of fresh cut roses are not available, but it is estimated that its production in recent years averaged about 350 million stems annually for greenhouse grown roses and 100 million stems annually for field grown roses. Data available on the area in greenhouse production show that in 1984 there were 228 hectares in production, down from 234 hectares in 1981. It is anticipated that this area would produce about 350 million rose stems, annually. According to data reported by the International Trade Centre, growers in West Germany supplied about 40 percent of West Germany's consumption in 1985. West German industry sources commented that price is the determining factor in the decision as to where to source fresh cut roses. It is anticipated that German growers will continue to lose market share to suppliers in the Netherlands, Israel, and Spain. According to industry sources, the West German grower is faced with an unfavorable climate and a pricing regime that discourages specialization and large volume production. The use of artificial lighting to increase quality may be the one factor that will permit West German growers to continue to compete in the future with foreign growers situated in more favorable climates.

**Exports.**—West Germany is a minor exporter of fresh cut roses. Almost all of West Germany's exports are to the Netherlands. In 1987, such exports totaled just over 1 million stems, compared with 900,000 stems in 1985.

**Imports.**—During 1985-87, West Germany's imports of fresh cut roses increased from 708 million stems in 1985 to 822 million stems in 1987.<sup>1</sup> The Netherlands is the principal supplier,

<sup>1</sup> Foreign Service telegram.

accounting for 84 percent of such imports in 1987. Other important suppliers are the Canary Islands, Israel, and Italy.

### *The Colombian Industry*

Colombia is the largest producer of fresh cut roses in Latin America and the second largest exporter in the world after the Netherlands. The rose-growing area in Colombia enjoys a moderate climate, with daytime temperatures ranging from the 70s to low-80s degree Fahrenheit during most of the year. Colombia also has clear, sunny days, a requisite for growing roses. Although most roses in Colombia are grown in greenhouses, the structures do not require heat and are used only to protect the plants from rain and pests.

Through interviews with the Commission's staff, several industry experts have commented on the special dedication and organization of the Colombian fresh cut rose producer vis-a-vis other Latin American producers. Many believe that this is the primary reason for the emergence of Colombia as a major world producer of fresh cut roses.

**Production.**—According to data provided by the Colombia Foreign Trade Institute, Colombia had approximately 283.3 hectares devoted to the production of roses in 1987. In the same year, there were 18.4 million rose plants, which produced approximately 276.2 million blooms. In 1985, the number of blooms produced was 163.9 million, indicating an increase of almost 70 percent by 1987. Most of Colombia's output is intended for the export market, primarily the United States. The following tabulation shows Colombia's production, exports, and consumption of fresh cut roses during 1985-87 (in thousands of stems):

Year	Production	Exports	Consumption
1985 .....	163,934.7	158,931.0	5,543.7
1986 .....	212,952.3	205,751.0	7,201.3
1987 .....	276,239.0	266,897.5	9,341.5

As the tabulation shows, of those blooms produced in 1987, 266.9 million blooms were exported, while 9.3 million, or about 3 percent, were consumed locally.

Detailed statistics regarding employment in the Colombian rose-growing industry are not available; however, data for the fresh cut flower industry as a whole show that employment has grown at a significant rate in recent years. In 1980, approximately 30,600 workers were directly employed in the Colombian fresh cut flower industry; in 1986, the number increased to 50,000 workers.

In terms of product, fresh cut rose production in Colombia differs substantially from that in the United States. Colombian growers produce primarily red hybrid tea roses of the Visa variety,

whereas U.S. growers produce a mixture of both hybrid tea and sweetheart roses and in an assortment of colors. Colombian growers, however, are in the process of perfecting and increasing their production of nonred varieties to accommodate EC demand as well as changing U.S. demand.

*Exports.*—Colombia is the leading exporter of fresh cut roses in South America. The following tabulation shows the principal marketing regions for Colombian exports of fresh cut roses (in thousands of stems):

Region	1985	1986	1987
United States <sup>1</sup> .....	150,020	188,332	238,047
EC .....	2,705	8,707	18,128
Other European countries .....	2,930	5,250	6,434
Canada .....	1,141	1,654	2,625
All other .....	1,595	1,808	1,663
<b>Total .....</b>	<b>158,391</b>	<b>205,751</b>	<b>266,897</b>

<sup>1</sup> Colombian export data to the United States may not correspond to U.S. import data from Colombia. Transshipments to other markets such as Canada and other discrepancies in reporting techniques may cause the data to vary.

Exports increased from 158.4 million stems in 1985 to 266.9 million stems in 1987, or by approximately 69 percent. The United States accounted for the majority of Colombia's export sales, followed by the EC, other European countries, and Canada. The United States generally accounts for over 90 percent of Colombia's fresh cut rose exports.

*Imports.*—As a developing country, the average Colombian consumer does not have as much disposable income as consumers in the more developed economies. Although data are not available, imports of fresh cut roses for consumption in Colombia are assumed to be insignificant. It is expected that any fresh cut rose imports would come from other South American countries and would then be transshipped to the United States or other markets. The current duty rate in Colombia on fresh cut roses and most other cut flowers is 5 percent ad valorem. The only apparent nontariff barrier is a general provision under which all imported plant and vegetable products must be accompanied by a sanitary certificate.

#### *Other Latin American countries*

Although Colombia is the largest producer and exporter of fresh cut roses in Latin America,

there are other significant producers as well, including Mexico, Ecuador, Costa Rica, Guatemala, and the Dominican Republic. The fresh cut rose industry in many of these countries is still in an early stage of development. Mexican officials, for example, report that their country only began producing roses for export at the beginning of this decade. For most of these countries, production technology and climatic conditions are not as conducive for cost-efficient rose production as those in Colombia.

*Production.*—Data on fresh cut rose production in the individual Latin American countries are scant; however, some estimates are available. Mexico, which ranks as the second largest U.S. supplier in the region, currently devotes approximately 55 hectares, or 121 acres, to the production of fresh cut roses. A portion of Mexico's rose production takes place in fields rather than in greenhouses. Roses produced in this manner are poorer in quality and are more susceptible to insect damage and diseases, making it more difficult to pass the stringent inspection requirements in the United States.

In Ecuador there were approximately 33 hectares allocated to fresh cut rose production in 1987, a substantial increase from the 4.2 hectares reported in 1985. Domestic consumption in Ecuador appears to be somewhat higher than that in Colombia. In 1987, Ecuadorans consumed 6.5 million of the 36.1 million stems produced in their country, or approximately 18 percent. Mexico, with its population of 85 million people, also reports a growing consumption base as the result of recent domestic promotional efforts.

*Exports.*—Total exports from the principal Latin American sources other than Colombia are small in comparison with those of Colombia. In 1988, the United States reported receiving 241 million stems from Colombia, but only 63 million from Mexico, Guatemala, Ecuador, Costa Rica, and the Dominican Republic combined. During 1984–88, Mexico showed the largest percentage gain in import share of the U.S. market, rising from 7.1 million to 26.4 million stems, for a total increase of 19.3 million stems, or over 270 percent. The United States is the principal export market for all of these countries. Canada and the EC are believed to be the principal markets after the United States.

*Imports.*—Imports of fresh cut roses into most Latin American countries are negligible. Domestic production is usually enough to supply domestic demand, and most fresh cut flowers are exported to the developed countries.





## Chapter 5

### Status of Competitiveness

The U.S. rose-growing industry has been in a period of flux over the last 10 years, with domestic production of fresh cut roses increasing in the early 1980s before declining in the mid-1980s. Production increased from 1985 to 1987. Since the late 1970s, however, foreign suppliers have increased market share each year and eroded the dominant position of the U.S. industry. Foreign suppliers appear to have been able to capture an increasing share of the U.S. market through aggressive marketing, stable supplies, and generally lower prices.

For the purposes of this chapter, competitiveness means the success and strength of an industry relative to its rivals. The following indicators of competitiveness were examined by the Commission: market share, production, entry of new growers, prices, profitability, investment in production facilities, consumer preferences, and exchange rates. Opportunities for the U.S. industry to improve its current status, as well as any restraints on the potential for such improvement, are also considered at the end of this chapter.

### Measures of Competitiveness

#### *Market share*

One indicator of U.S. competitiveness in the market for fresh cut roses is the change in the U.S. growers' share of the domestic market. Market share can be used with other performance indicators to compare the economic condition of the U.S. industry with that of its competitors.

During 1985-88, U.S. growers faced a steadily declining market share in a steadily growing market. From 1985 to 1988, U.S. growers' share of the domestic market declined from 73 percent to 62 percent, whereas apparent consumption increased 29 percent, from 637 million stems to 828 million stems. During this period imported fresh cut roses increased from 169 million stems to 314 million stems, or by 86 percent, while U.S. production increased by 9 percent from 477 million stems to 522 million stems. U.S. growers were not only confronted with increased imports from Colombia, but also from other Latin American suppliers, such as Mexico, Guatemala, and Ecuador, who significantly increased their presence in the U.S. market.

#### *Production*

Other indicators of an industry's competitiveness are the ability of an industry to increase output and expand production facilities,

along with the ability of new firms to enter the industry. As mentioned above, the U.S. rose-growing industry increased output during 1985-88 by 45 million stems, or by 9 percent. Hence, the U.S. industry, although losing market share, has been able to expand output and capture part of an expanding market. This indicates that at least some segments of the U.S. rose-growing industry were able to compete with imports during the period.

Similarly, the willingness of U.S. growers to increase the area devoted to fresh cut rose production can be perceived as an indicator of the competitiveness of the industry. During 1985-87, U.S. rose growers increased the area devoted to fresh cut rose production as reported by the USDA from 31.4 million square feet to 35.6 million square feet, an increase of approximately 13 percent. Respondents to the Commission's questionnaire also reported that they increased the area of production for roses from 21.2 million square feet in 1985 to 24.2 million square feet in 1988, or by 14 percent.

#### *New U.S. growers*

Another measure of competitiveness is the ability or willingness of new firms to enter an industry. Although fresh cut rose production requires a significantly larger initial investment than the production of other fresh cut flowers, the number of commercial growers of hybrid tea roses nevertheless increased, from 243 firms in 1985 to 251 firms in 1987. The number of commercial growers of sweetheart roses also increased, from 166 firms in 1985 to 169 firms in 1987.<sup>1</sup> In comparison, the number of commercial growers of standard carnations decreased from 286 firms in 1985 to 258 firms in 1987. The number of standard chrysanthemum growers also declined, from 544 in 1985 to 457 in 1987, and the number of pompon chrysanthemum growers fell from 661 to 560.

#### *Prices*

Prices for fresh cut roses vary according to their physical characteristics, including stem length, color, type, and appearance, and by market forces, such as holiday demand. Prices for roses are also affected by the way they are sold, i.e., standing order sales, spot sales, or consignment sales. The Commission gathered pricing data from public sources and from U.S. growers, shippers, and importers. The public data show that, on average, prices for imported roses from South American sources were 30 percent lower than California roses during 1985-88.

Responses to Commission questionnaires support the public data. For all three types of roses surveyed (i.e., red hybrid tea roses, nonred

<sup>1</sup> Data for 1987 are not comparable with earlier years due to an expansion of the USDA data base in 1987.

hybrid tea roses, and sweetheart roses) the growers' and shippers' prices were generally higher than the importers' prices. The higher growers' and shippers' prices reveal a preference by U.S. intermediate consumers for domestic roses. Although the precise reasons are not known, industry sources generally mention product freshness, timeliness in delivery, and wider selection of colors as the factors determining their preference for domestic roses.

### Profitability

Relative profitability, investment in productive facilities, and research and development expenditures are indicators of the competitiveness of an industry compared with its foreign rivals. For example, an increase in profitability can be a sign of improved efficiency (which reduces costs) or the marketing of higher quality product (which can increase revenues). Similarly, a decline in profitability may be attributable to a failure to take advantage of new technology, to market a product that consumers want, or to control costs.

U.S. fresh cut rose growers experienced declining returns on their sales of roses during 1985-88, according to questionnaire data from 95 U.S. growers. The data on net returns on sales are summarized in the following tabulation (see also table 3-14):

Year	Net Income (1,000 dollars)	Ratio of net income to sales (percent)
1985 .....	3,989	4.6
1986 .....	5,100	5.6
1987 .....	5,094	5.4
1988 .....	3,326	3.5

The decline in the net return on sales in 1988 reflects significantly higher growing and operating expenses per dollar of sales in that year compared to earlier years. However, no individual expense item increased at a significantly faster rate than any other expense item in 1988.

Competitiveness can also be measured by the number of firms that are reporting losses. The following tabulation presents data on those U.S. growers who reported losses, by producing region:

Region	1985	1986	1987	1988
Number of firms reporting losses:				
California .....	12	9	10	12
Colorado .....	2	2	4	5
Other States west of the Mississippi .....	6	5	7	6
States east of the Mississippi .....	11	15	12	13
Total .....	31	31	33	36
Total number of firms reporting .....				
	91	93	94	95

Additionally, this tabulation shows the percentage of firms reporting losses, by producing region:

Region	1985	1986	1987	1988
Percent of firms reporting losses:				
California .....	36.4	25.7	28.6	34.3
Colorado .....	18.2	20.0	40.0	50.0
Other States west of the Mississippi .....	46.2	38.5	53.8	46.2
States east of the Mississippi .....	32.4	41.7	33.3	35.1
Total .....	34.1	33.0	35.1	37.9

As shown in the above tabulation, the number of firms showing losses increased over the period, with producers in Colorado showing the greatest number of firms with losses, with 1 out of every 2 firms reporting losses in 1988. Some producers in other States west of the Mississippi, except California, also reported losses. The region west of the Mississippi is a surplus producing region, and almost all of the surplus is shipped to markets in the region east of the Mississippi.

### Investment in productive facilities

Data on the original cost of greenhouse facilities, including capital improvements, show that for 49 U.S. growers, the value of such productive facilities used in the production of fresh cut roses increased by 25 percent to \$67.6 million during 1985-88. Data on capital expenditures of 65 U.S. growers, however, show that they gradually reduced such expenditures from a high of \$8.3 million in 1986 to a low \$5.7 million in 1988.

### Consumer preferences

Data on apparent U.S. consumption indicates that there has been a shift in U.S. consumer preferences for fresh cut roses away from the sweetheart varieties to the hybrid tea varieties. Hybrid tea rose varieties are less productive than sweetheart varieties. This shift will result in more labor being required per stem produced, which may increase the U.S. labor-cost disadvantage and therefore weaken the competitive position of the U.S. industry.

Data on prices of fresh cut roses in major U.S. wholesale markets indicate that intermediate consumers of roses (wholesalers and retail florists) prefer U.S.-produced roses over imported roses and are willing to pay a premium to obtain U.S.-produced roses. This preference for U.S.-grown roses may include such factors as a wider range of colors (including various shades of red), the ability of domestic rose varieties to draw water better than imported varieties, shelf life, and freshness.

## *Exchange rates*

At the Plaza Hotel meeting in New York in 1985, the G-5 (United States, Japan, Germany, France, and the United Kingdom) agreed on the direction national economic policies and exchange rates should take to facilitate growth and external adjustment. Since then, the U.S. currency has depreciated substantially with respect to the major world currencies. However, the Colombian peso, currency of the major foreign supplier of roses to the United States, has depreciated much faster than the U.S. dollar since January 1985. Table 5-1 presents indices of producer prices in the United States, Colombia, the Netherlands, and West Germany, and indices of the nominal and real exchange rates between the U.S. dollar and three other foreign currencies (Colombian peso, Netherlands guilder, and the West German deutsche mark), by quarters, from January-March 1985 (the base period) through September-December 1988. During the sample period, the U.S. dollar appreciated by 21.7 percent in real terms with respect to the Colombian peso, whereas the dollar depreciated by 69.9 percent with respect to the deutsche mark, as shown in table 5-1.

The U.S. dollar's appreciation with respect to the Colombian peso makes Colombian products more competitive in the U.S. market vis-a-vis domestic products, if all other factors such as competitors' price, product demand, and manufacturing costs, remain unchanged. It is also true that the U.S. dollar's depreciation with respect to the Netherlands' guilder and the deutsche mark make U.S. products more competitive in the two European countries. Since exports of Colombian products to the EC are quoted in U.S. dollars, depreciation of the U.S. dollar makes both U.S. and Colombian products more competitive in the European market. As a result of the depreciation of the peso with respect to the U.S. dollar, Colombian growers are able to lower the prices of their products in the EC market. If Colombian growers lower their prices, their products will be more competitive than U.S. products in the EC market.

## **Impediments and Opportunities**

### *Overview*

As shown in the body of the report, the U.S. rose-growing industry is facing significant competition within the U.S. market from foreign rose growers. Despite this foreign competition, production, employment, the number of producers, and the amount of square footage in production all increased over the period covered by this investigation. Yet, declining market share, rising production costs, and price competition suggest that the U.S. rose-growing industry may

be losing certain competitive advantages vis-a-vis certain foreign industries. There are other, more qualitative factors that are also helpful in assessing the competitive condition of the U.S. rose-growing industry. Such factors are discussed here on the basis of whether they present impediments to, or opportunities for, improvements in the current competitive status of the U.S. rose-growing industry.

### *Impediments*

The domestic rose-growing industry faces several obstacles in regaining the competitive edge over Latin American and other foreign industries in the marketing of fresh cut roses both in the United States and abroad.

First, the U.S. rose-growing industry cannot compete with the labor rates in Latin American countries. As stated in chapter 3 (see section on Employment and Wages), the average wage rate for U.S. firms is \$6.32 per hour, whereas the wage rate in Colombia is approximately \$5-\$6 per day. Most activities involved in bringing a shipment of fresh cut roses to the market, such as planting, harvesting, grading, and packing, require substantial labor input. Although many of the larger U.S. firms have switched to capital inputs where possible, the small- and medium-sized firms still perform most of the work by hand. Because the wage differential is so great, Latin American producers have a strong competitive advantage in this area.

Another obstacle confronting the U.S. rose-growing industry is its shorter growing season compared with that of most of its principal foreign rivals. California is the only growing region where roses can receive the requisite amount of heat and sunlight throughout most of the year with minimal support from artificial devices. In the winter, when Valentine's Day and Christmas occur, domestic production is not sufficient to satisfy demand. Colombia, with its bright, sunny days and longer winter growing days, is in a position to produce abundant supplies of fresh cut roses efficiently during all holiday periods.

A third impediment for the U.S. industry is government regulation. Environmental Protection Agency requirements as well as Occupational Safety and Health Administration standards often create costs that are not incurred by foreign producers. These programs impose standards on fumigation and pesticide practices, fuel and natural gas conservation, and land and water use.

Finally, U.S. fresh cut rose importers in Miami, FL, have developed an efficient distribution network in the United States, which has had some impact on the supply of fresh cut roses in many eastern States. As the principal point of entry, Miami, FL, is equipped with

Table 5-1

Exchange rates: Nominal-exchange-rate equivalents of selected currencies in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in specified countries indexed by quarters, January 1985–December 1988

Period	U.S.	Colombia			Netherlands			West Germany		
	Pro- ducer Price Index	Pro- ducer Price Index	Nominal- exchange- rate Index	Real- exchange- rate Index	Pro- ducer Price Index	Nominal- exchange- rate Index	Real- exchange- rate Index	Pro- ducer Price Index	Nominal- exchange- rate Index	Real- exchange- rate Index
		Dollar/Peso			Dollar/Guilder			Dollar/DM		
1985:										
Jan.-Mar ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June ..	100.1	108.3	87.8	95.0	100.1	105.7	106.3	100.7	105.5	106.1
July-Sept ...	99.4	112.6	79.1	89.6	99.4	114.9	115.8	100.7	114.3	115.8
Oct.-Dec ...	100.0	115.7	72.2	83.5	100.0	126.5	125.5	100.4	126.0	126.8
1986:										
Jan.-Mar ...	98.5	123.5	67.3	84.3	98.5	139.0	138.0	99.0	138.8	140.5
Apr.-June ..	96.6	135.8	63.1	85.2	96.5	145.5	146.8	98.5	145.0	147.8
July-Sept ...	96.2	135.8	59.6	84.2	96.2	156.6	157.5	97.6	156.1	158.5
Oct.-Dec ...	96.5	142.8	55.9	82.8	96.5	162.4	162.6	95.9	162.2	161.1
1987:										
Jan.-Mar ...	97.7	154.6	52.8	83.6	97.7	177.4	175.4	95.5	177.0	173.1
Apr.-June ..	99.2	163.2	50.1	82.4	99.2	180.9	175.6	95.1	180.4	173.0
July-Sept ...	100.3	169.5	47.7	80.5	100.3	177.8	170.7	95.6	177.0	168.6
Oct.-Dec ...	100.8	178.0	45.9	81.1	100.8	191.9	183.1	95.9	190.9	181.7
1988:										
Jan.-Mar ...	101.2	193.9	43.8	83.9	101.2	195.7	185.4	95.8	194.3	184.1
Apr.-June ..	103.0	208.7	41.0	83.1	103.0	192.2	179.7	96.4	190.7	178.4
July-Sept ...	104.2	220.2	38.5	81.1	104.5	174.9	162.1	96.9	174.5	161.6
Oct.-Dec ...	105.0	226.3	36.3	78.3	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	97.4	183.4	169.9

<sup>1</sup> Not available.

Note.—1. Exchange rates expressed in U.S. dollars per unit of foreign currency.

2. The real value of a currency is the nominal value adjusted for the difference between the inflation rates in the two countries involved.

Source: International Monetary Fund, *International Financial Statistics*, November 1988.

refrigeration and handling facilities, 24-hour plant and health inspection services,<sup>1</sup> trucking firms which can guarantee delivery to most major cities within 2 days, and, not insignificantly, a Spanish-speaking population. In short, the emergence of Miami, FL, as a primary import center for fresh cut roses suggests that the flow of imports from Latin America could continue to increase. In addition, as importers continue to enhance their image as steady, consistent suppliers, their competitive position in the U.S. market will more than likely improve.

### Opportunities

Despite the number of difficulties faced by U.S. rose growers, there are still several competitive advantages at their disposal that are not available to other world producers. If exploited, these advantages could develop into opportunities for expansion in the U.S. and foreign markets, particularly the EC.

In the U.S. market, domestic producers still have the advantage of market proximity, more advanced technology, better research and

<sup>1</sup> The inspection services are provided free of charge during regular hours, but must be paid for by the importer if inspection is desired during nonregular work hours.

development services, and a better investment climate. Although many growers in their questionnaire responses stated that they did not have the financial capital to invest in facility improvements or expansion, the investment climate is still far better in the United States than it is in most Latin American countries. The Mexican Association of Producers and Exporters of Ornamental Flowers (ANAPROMEX) concurred with this in their prehearing brief.

U.S. producers also enjoy a reputation for better product quality. Although interpretations vary, several importers in their questionnaire responses stated that they believed the quality and color of the U.S. rose varieties to be superior to those from Latin America. A few Northeastern importers reported that they prefer to buy domestic roses when they are available. They stated, however, that domestic roses are often not available precisely at those times of year when roses are most demanded, i.e., the week before Valentine's Day.

Another advantage to U.S. producers, one that has already benefitted many Latin American producers, is the depreciation of the U.S. dollar relative to most European currencies. The current exchange rate of the U.S. dollar vis-a-vis EC currencies should make the price of U.S. roses cheaper in the EC market. This would have a

mitigating effect on the higher EC tariff rates (see discussion in ch. 6). Because fresh cut flowers are generally priced in U.S. dollars when entering the EC market, many foreign producers have also been able to take advantage of this depreciation. Although this creates some additional competition for U.S. producers, it should not prevent them from taking some advantage of this opportunity.



## Chapter 6

### Effect of the European Community's Duty Rate on World Trade

In the Omnibus Trade and Competitiveness Act of 1988, Congress asked the Commission to discuss the effects of the European Community's tariff rate for roses on world trade of roses. The EC currently has in effect a dual tariff system for roses. The summer growing period, which begins June 1 and ends October 31, covers the primary growing season in Europe. The tariff rate during this period is 24 percent ad valorem. The winter growing period begins November 1 and continues through May 31. The tariff rate for this period, which includes the winter growing season and most of the major holidays, is 17 percent ad valorem. Table 6-1 compares the difference between U.S. and EC imports of fresh cut roses during the two EC tariff periods. Figures 6-1 and 6-2 present the data in illustrative form.

In general, the purpose of the EC tariff structure is to protect EC fresh cut rose producers during the peak growing season when demand is lower, and to supplement the market with imports during the off-growing season when demand is higher. Figure 6-1 demonstrates this effect by comparing the difference in the level of EC

imports between the summer and winter growing periods from non-EC member countries. In 1987, for example, EC imports from nonmember sources during the summer growing period were 22.7 million stems, or approximately 10 percent of the overall total of 235.7 million stems received in that year. As shown in figure 6-2, U.S. imports in 1987 were 92.7 million stems, or approximately 35 percent of the total number of stems received in that year. The United States currently has in effect an ad valorem duty rate of 8 percent on fresh cut rose imports throughout the year from MFN countries. Although the summer growing period covers only 5 months whereas the winter growing period covers 7 months, the rather large difference between U.S. and EC import patterns suggest that there is some variable affecting EC import demand that does not affect U.S. import demand.

Figures 6-3 through 6-7 illustrate the degree of the downturn in EC import demand for fresh cut roses during the summer growing period. During each of the 5 years from 1983 to 1987, EC imports decreased dramatically during the summer growing period compared with levels during the winter growing period. In July, August, and September, imports were generally less than 1 million stems for each of these months for all 5 years. In the winter growing period, when EC

<sup>1</sup> In June 1987, EC imports of fresh cut roses reached 2.2 million stems.

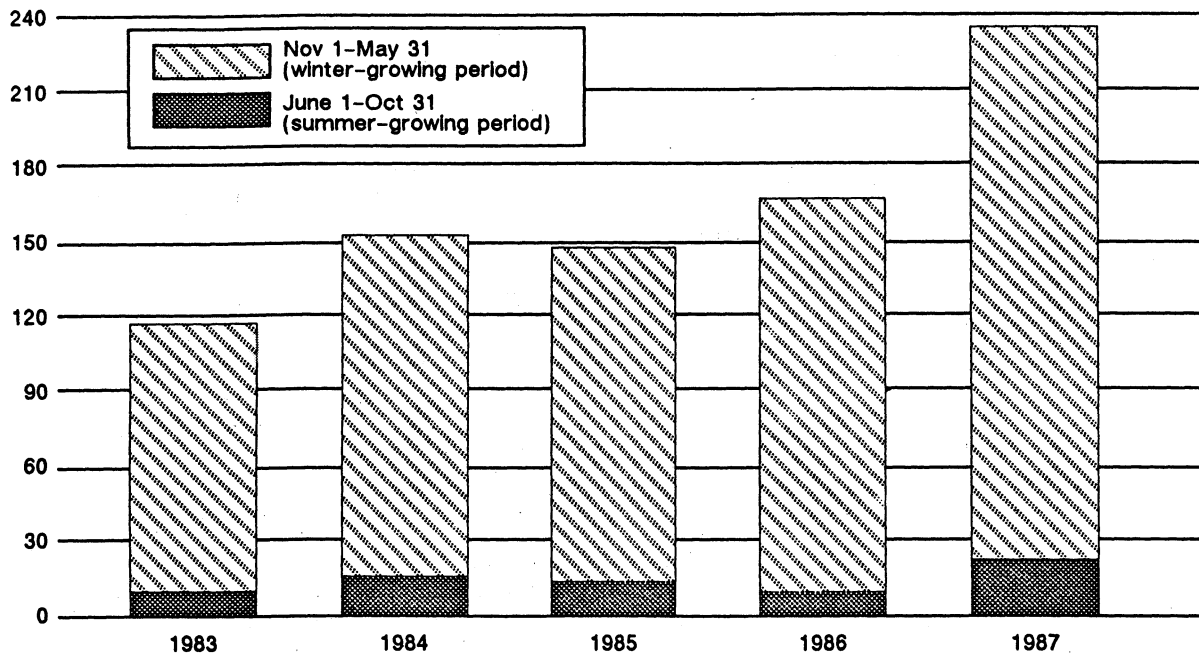
Table 6-1  
U.S. and EC Imports of fresh cut roses, by periods, 1983-87

	1983	1984	1985	1986	1987
<i>Quantity (million stems)</i>					
European Community:					
Summer growing .....	10.8	16.9	14.0	9.8	22.7
Winter growing .....	107.8	136.8	133.7	157.4	213.0
Total .....	118.6	153.7	147.7	167.2	235.7
United States:					
Summer growing .....	48.2	60.6	60.6	69.3	92.7
Winter growing .....	77.9	98.2	108.1	142.6	174.2
Total .....	126.1	158.8	168.7	211.9	266.9
<i>Percent of total</i>					
European Community:					
Summer growing .....	9.1	11.0	9.5	5.9	9.6
Winter growing .....	90.9	89.0	90.5	94.1	90.4
Total .....	100.0	100.0	100.0	100.0	100.0
United States:					
Summer growing .....	38.2	38.2	35.9	32.7	34.7
Winter growing .....	61.8	61.8	64.1	67.3	65.3
Total .....	100.0	100.0	100.0	100.0	100.0

Source: EC data for 1983-85 and January-October 1986 were compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE*. EC data for November-December 1986 and whole year 1987 were estimated from official data in *Eurostatistics*, NIMEXE 060301 and 060351. U.S. data compiled from official statistics of the U.S. Department of Commerce.

**Figure 6-1**  
EC Imports of fresh cut roses, by periods, 1983-87

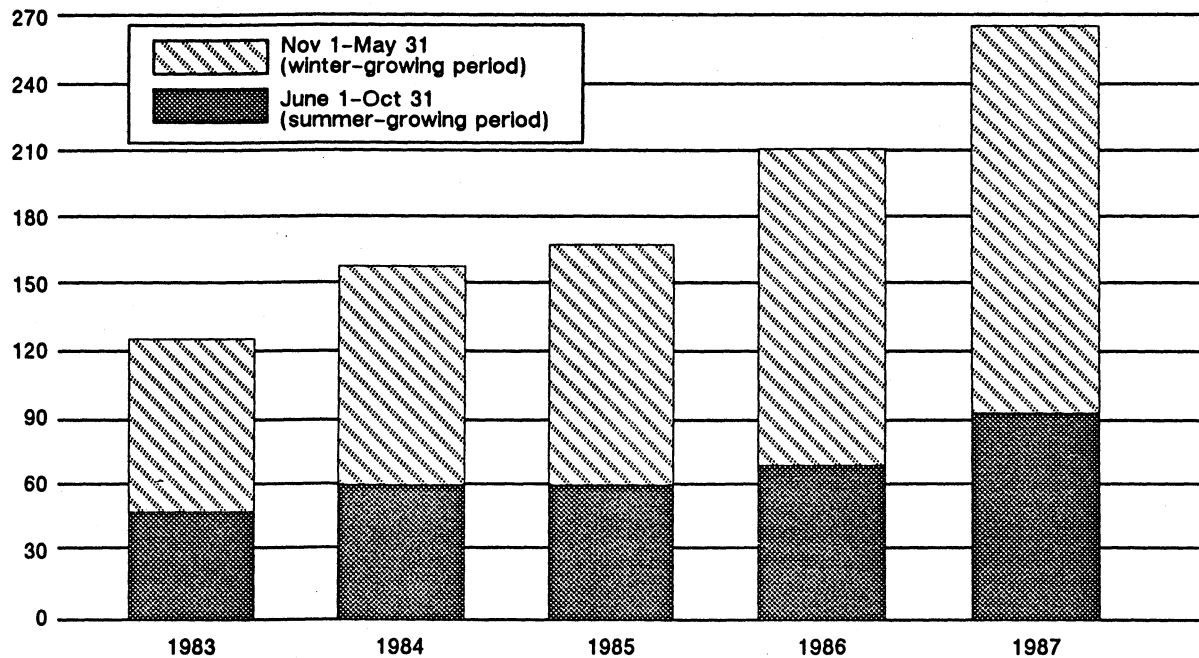
Number of  
Stems (millions)



Source: EC data for 1983-85 and January-October 1986 compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE*. EC data for November-December 1986 and whole year 1987 estimated from official data in *Eurostatistics*, NIMEXE 060301 and 060351.

**Figure 6-2**  
U.S. Imports of fresh cut roses, by periods, 1983-87

Number of  
Stems (millions)

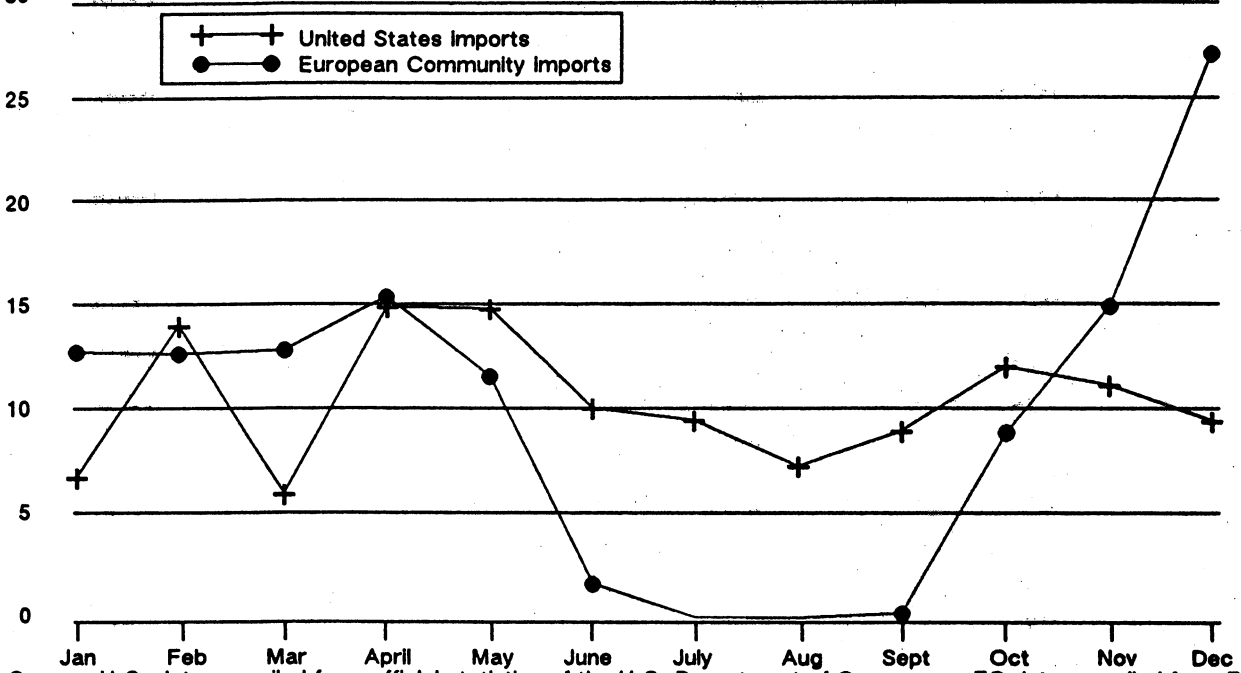


Source: U.S. data compiled from official statistics of the U.S. Department of Commerce.



**Figure 6-3**  
**U.S. and EC Imports of fresh cut roses, by months, 1983**

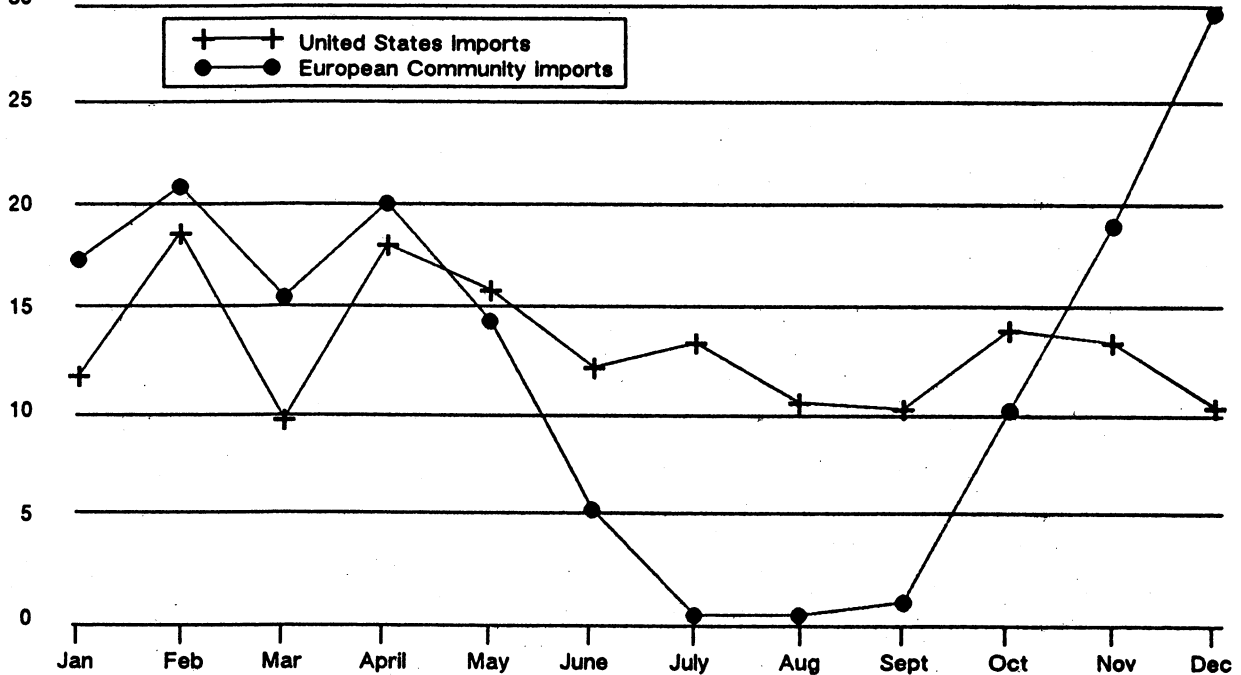
Number of  
 stems (millions)



Source: U.S. data compiled from official statistics of the U.S. Department of Commerce. EC data compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE* (1988).

**Figure 6-4**  
**U.S. and EC Imports of fresh cut roses, by months, 1984**

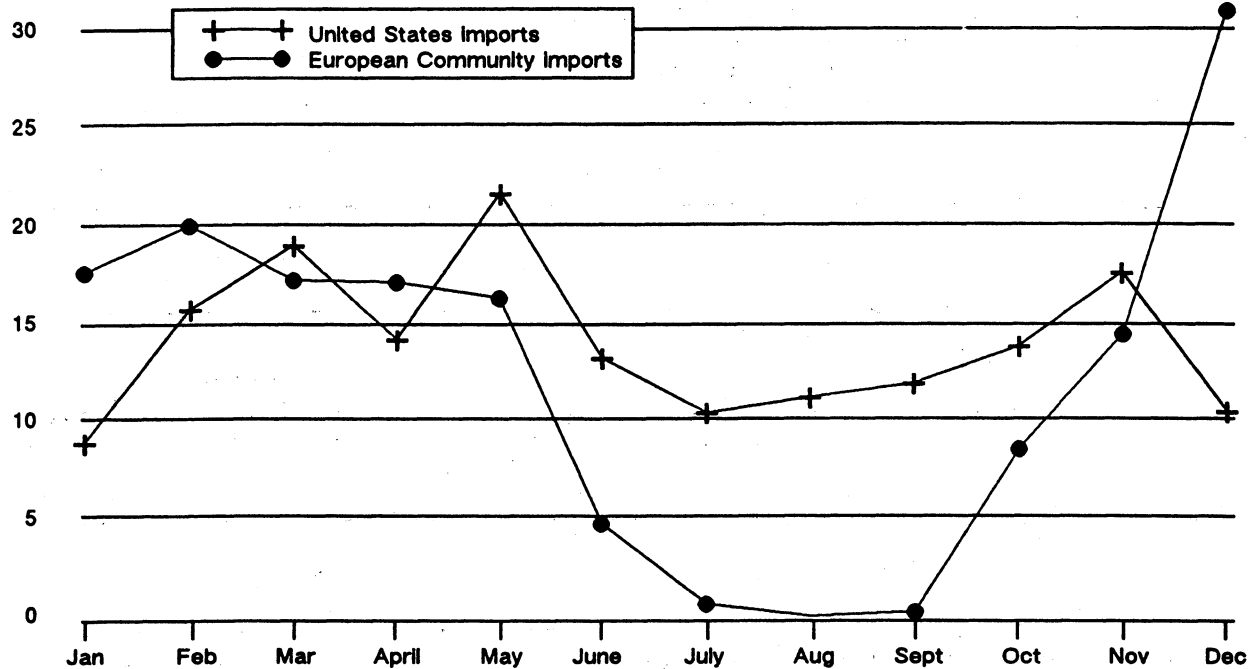
Number of  
 stems (millions)



Source: U.S. data compiled from official statistics of the U.S. Department of Commerce. EC data compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE* (1988).

**Figure 6-5**  
U.S. and EC Imports of fresh cut roses, by months, 1985

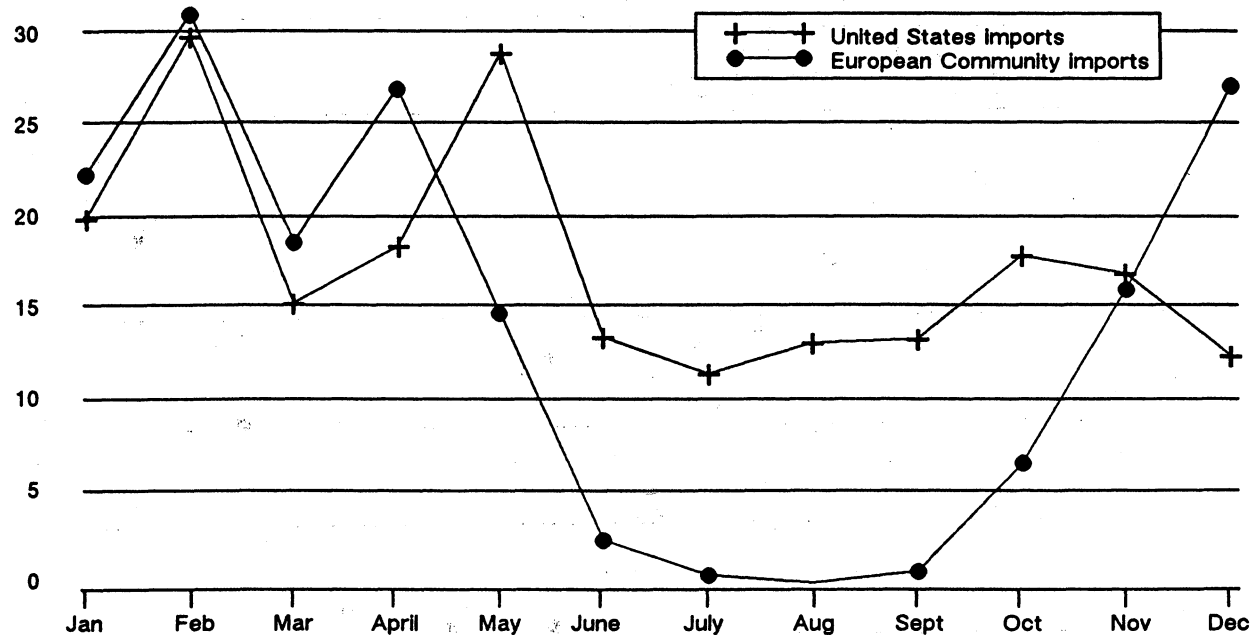
Number of  
stems (millions)



Source: U.S. data compiled from official statistics of the U.S. Department of Commerce. EC data compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE* (1988).

**Figure 6-6**  
U.S. and EC Imports of fresh cut roses, by months, 1986

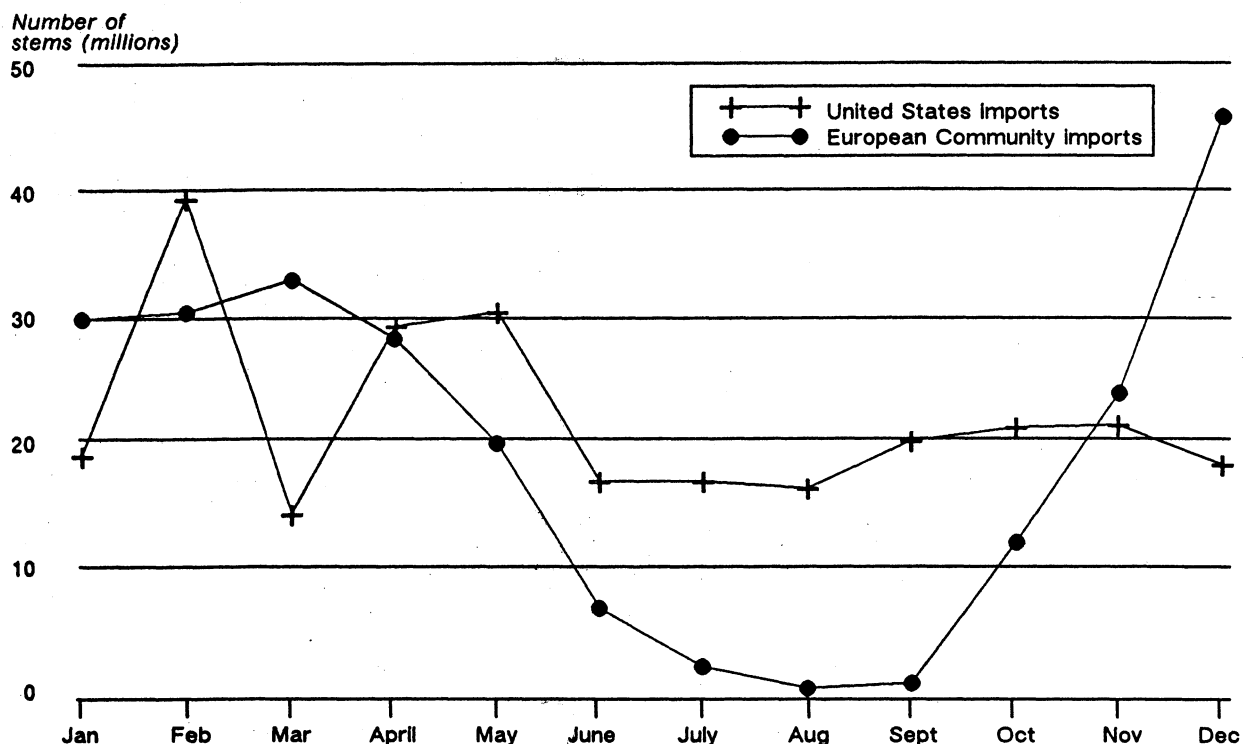
Number of  
stems (millions)



Source: U.S. data compiled from official statistics of the U.S. Department of Commerce. EC data for January-October 1986 compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE* (1988). EC data for November-December 1986 estimated from official data in *Eurostatistics*, NIMEXE 060301 and 060351.

6-4

**Figure 6-7**  
**U.S. and EC Imports of fresh cut roses, by months, 1987**



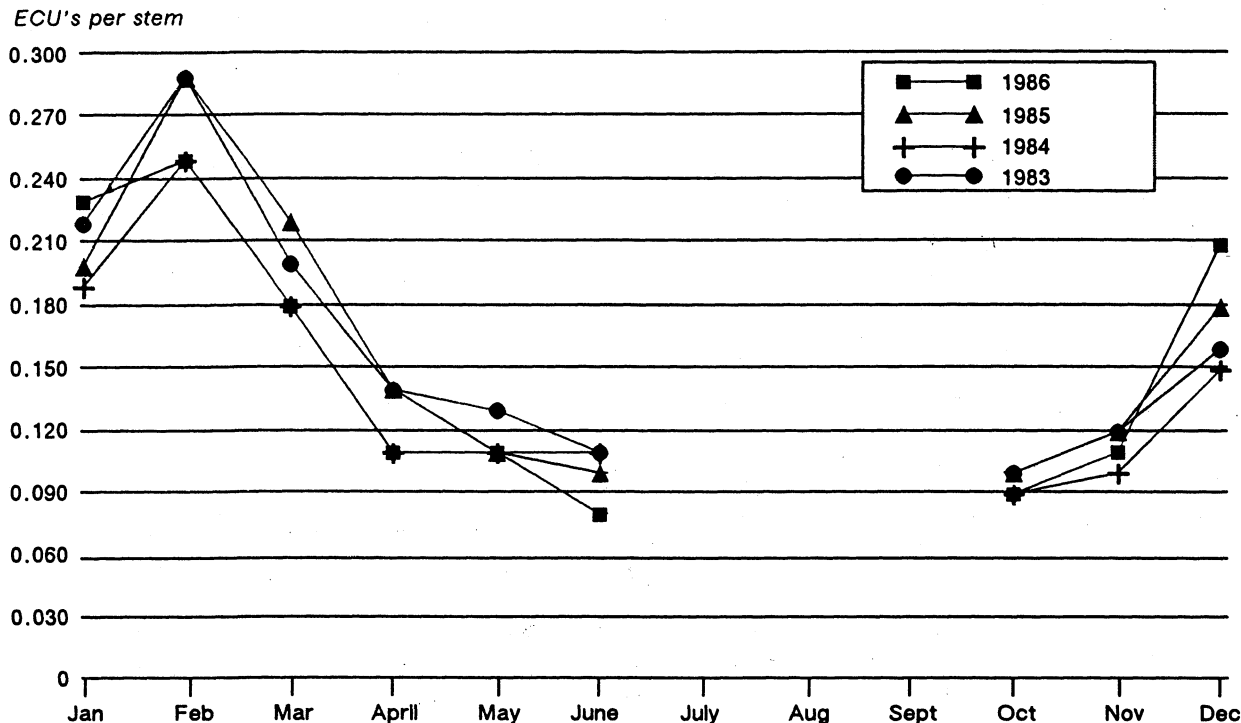
Source: U.S. data compiled from official statistics of the U.S. Department of Commerce. EC data estimated from official data in *Eurostatistics*, NIMEXE 060301 and 060351.

production is low, imports of fresh cut roses were generally stable from January to May, with occasional but relatively moderate peaks in February (Valentine's Day) and April (Easter). EC imports were generally at their highest level in December, indicative of the fact that roses are a greater part of the Holiday tradition in Europe than in the United States. U.S. imports, on the other hand, generally peaked in February and again in April or May (Mother's Day). The summer months of June, July, and August, together with December were generally the lowest import periods during 1983-87 for the United States.

In addition to the EC tariff structure, another factor that may contribute to the low level of imports during the summer growing period is the

demand for imports during that period. An indicator of import demand during the summer growing period is the price of imports in the EC during that period. Figure 6-8 shows the average unit value of EC imports by months for 1983-86. As can be seen, the prices of imported fresh cut roses declined from a peak in February of each year to a low in June of each year. Data are not available for the months of July, August, and September because of the low volume of imports during those months. However, data show that prices in October of each year are approximately at the same level as June prices. Prices then rise steadily through December. Hence, imports into the EC may be lower during the summer growing period because of the low demand for imports and the resulting low prices.

Figure 6-8  
Fresh cut roses: unit value of EC imports, by months, 1983-86



Note.—Due to rounding, import data figures for the months of July, August, and September will not allow for the accurate calculation of unit values.

Source: Data compiled from EC publication *Plantes Vivantes et Produits de la Floriculture Commerce Extérieur de la CEE* (1988).

Although these figures do not illustrate all the factors affecting EC imports of fresh cut roses, they do suggest that the 7-percentage-point variance in duty rates between the summer and winter growing periods has had an impact on the monthly import patterns of the EC during 1983-87. In an effort to provide additional evidence, the staff of the Commission has developed a simple, econometric model to show the effects of the EC tariff rate on world trade of roses. The model was fitted to the monthly data on the EC's imports of fresh cut roses, import prices, and the tariff variance during 1983-86.<sup>1</sup>

<sup>1</sup> The statistical results of the model are as follows:

$$\text{Log (MREC)} = 5.6103 - 0.1663\text{Log(P)} - 1.2847(\text{HT})$$

$$(0.8594) \quad (-0.3028) \quad (-0.2521)$$

$$R^2 = 0.5181 \quad F = 17.7380$$

Where: Log = logarithm  
MREC = EC imports of roses from the world in 100,000 stems  
P = Import price of roses in EC currency units  
HT = Higher tariff months for June-October 1983-86

Since the monthly import prices for the EC are not available, the unit value of the EC's imports of roses is used as a surrogate. The figures in the parentheses under the estimated coefficients are standard errors.

The estimated coefficients of the variables included in the model imply that if the tariff rate for the summer growing period were reduced to the same level as the winter growing period (from 24 to 17 percent ad valorem), the level of EC imports of fresh cut roses during June-October would increase by a maximum of 1.3 times, or by 128 percent. There are other factors affecting the EC's import demand for roses during the summer growing period, which are not included in the equation.

It is clear that the EC's domestic supply of roses would tend to reduce the EC's import demand for roses during the summer growing period. The regression more than likely captures

#### <sup>1</sup>-Continued

Both coefficients of the price and tariff variables have the correct signs. The tariff variable is statistically significant at the 99 percent level. The F statistic is at the 99.5 percent level of significance for the degrees of freedom (2, 34). The value of the coefficient of determination ( $R^2$ ) indicates that 52 percent of the variation in the EC import demand was explained by the higher tariff and price variables. The value could be increased or improved if an income is included in the equation; however, the monthly data on the EC's national income or GNP are not readily available.

the effect of both the supply increase in the EC during the summer and the 24-percent tariff rate. Since there are no available observations where both occurrences are not present (such as a summer growing period with no high tariff, or a high tariff period when there was no increase in EC supply), it is impossible to separate the effects of the high tariff from the increased domestic supply of roses in the EC. Thus, the estimate should be regarded as an upper bound for the effect of the high summer growing period tariff, and one that might substantially overstate the effect of the tariff. This overstatement need not be large, however. For instance, if the EC rose growing industry would not survive without the tariff, then the increase in the EC supply of roses would not cause the regression to overstate the effects of the higher summer growing period tariff. Therefore, the estimate of the 128 percentage change in imports of roses should be treated as the maximum effect resulting from the higher tariff. On average, world exports of fresh cut roses to the EC would have increased by 3.2 million stems each month during the 5-month, summer growing period if the EC had adopted a single tariff rate of 17 percent ad valorem during 1983-86.

The model also reveals a low elasticity of import demand for the EC during the winter growing period. The estimated elasticity of the EC's import demand for the winter growing period is 0.15. The statistical results suggest that the EC has provided an effective protection for its fresh cut rose industry. The higher tariff rate has significantly impeded the inflow of fresh cut roses from the world.

Many industry sources both in the United States and Latin America have stated that if the tariff differential between the United States and the EC were reduced, third-country producers would be able to export greater quantities of fresh cut roses to the EC. Because the EC population base is greater and per capita consumption is higher than in the United States, the EC would therefore be able to absorb a greater share of the world supply of roses. This phenomenon, in turn, would reduce the pressure on the U.S. rose market to absorb these imports. However, exporters in the long run may increase their production to satisfy world demand.

To confirm the evidence cited in the figures and the model, many industry sources have offered testimony to show that the current EC tariff structure has had a significant effect on world trade of roses. In a prehearing brief, representatives of the domestic growing industry stated that they believe that the overall level of the EC tariff rates are prohibitive; in addition,

they pointed out that the EC rates of duty are also assessed on the c.i.f., or landed, value, whereas the United States employs the f.a.s., or free alongside, standard. In their prehearing brief, Roses, Inc., cited an example of a recent attempt by a U.S. firm to ship roses from the United States to West Germany during the winter growing period when the tariff rate was 17 percent ad valorem. One thousand sweetheart roses were shipped on consignment. The Aalsmeer auction clock value for sweethearts at that time was equivalent to 10 cents per bloom. The air-freight charge plus packing was 7 cents per bloom. The U.S. grower therefore paid a duty rate of 17 percent on an estimated landed value of 17 cents, or approximately 3 cents per bloom. This amount, added to the 7 cents per bloom for airfreight, totaled a cost of 10 cents per bloom, which was equivalent to the auction price. After factoring in other costs to the grower (i.e., labor, capital, etc.), the roses could only be sold at a loss.

The EC tariff rate, nevertheless, is only one factor among several governing the flow of imports and exports of fresh cut roses. Testimony presented at the hearing, as well as information gathered by the Commission staff during field work, indicate the importance of several other factors on world trade of roses.

Several U.S. importing firms stated that they knew of a number of producers in foreign countries that were exporting fresh cut flowers, including roses, to the EC. They also stated that they believed the quantity of exports to be increasing. They cited several reasons for this phenomenon.

First, most U.S. importers cited the depreciation of the dollar as the primary reason for the recent increase in exports of fresh cut roses and other fresh cut flowers to the EC. In their posthearing brief, the Asociacion Colombiana de Exportadores de Flores (Asocolflores) and the Association of Floral Importers of Florida (AFIF) stated that the price of flowers exported to the EC from countries such as Colombia is generally denominated in U.S. dollars. This fact suggests that any fluctuation in the value of the dollar vis-a-vis European currencies could have an effect on exports of fresh cut roses. Although one spokesman for Asocolflores and AFIF does not believe that the depreciation of the dollar has any effect on Colombian exports to the EC, data gathered by the Commission suggests otherwise. The following tabulation shows the quantity of EC imports of fresh cut roses from principal nonmember sources during 1983-87 (in metric tons):

6-7

Country	1983	1984	1985	1986	1987
Israel .....	1,799	2,265	2,319	2,615	3,002
Morocco ....	198	264	342	447	567
Colombia ...	77	49	56	211	522
Ecuador ....	0	0	1	5	169
Brazil .....	15	49	64	75	106
Mexico .....	1	0	0	11	101
Rhodesia ...	11	22	30	32	74
Kenya .....	2	1	4	9	68
South Africa ....	22	22	15	26	26
United States ....	1	0	0	1	4
Total .....	2,126	2,672	2,831	3,432	4,639

Source: Eurostatistics, NIMEXE 060301 and 060351.

As the tabulation indicates, exports of fresh cut roses to the EC increased from all sources during 1983-87. More importantly, exports from the Latin American countries—Columbia, Ecuador, Brazil, and Mexico—increased at a dramatic rate after 1985 when the dollar first began to depreciate. Exports from Columbia, for example, actually fell 27 percent during 1983-85 but increased eightfold during 1985-87. Exports of fresh cut roses from the United States, though relatively small, also increased fourfold during 1985-87 after a period of decline during 1983-85.

Several industry experts also mentioned price as a factor that has caused exports to the EC to increase. The purchasing of fresh cut roses and other flowers for the home is a more deep-rooted tradition in Europe, and roses generally bring a higher price there than in the United States. This has been particularly true in recent years, as U.S. prices have been trending downward, as questionnaire data suggest. European purchasing practices also add to the stability of fresh cut rose prices in the EC. For example, many Europeans buy fresh cut roses and other flowers regularly on a weekly basis and not just during the holiday seasons. At the wholesale level, European importing firms are often willing to pay a fixed price for flowers on a year-round basis. In the United States, most importers accept flowers only on consignment. In addition, many EC importers will sign a contract with a foreign grower that may guarantee sales up to one year. According to industry experts, if a foreign producer can meet the delivery requirements, the pricing practices of the EC make that market a much more attractive alternative to the U.S. market.

For these reasons, industry experts believe that exports to the EC have increased in recent years. The depreciation of the dollar, together with the greater stability of EC prices have created added incentive for foreign growers to export fresh cut roses to Europe. Some industry sources have mentioned, however, that there are other factors which have acted to hinder exports to the EC.

First, some sources state that flight difficulties and freight costs are one obstacle in exporting roses to Europe. Because they are perishable, fresh cut roses must be shipped overseas by air. Direct flights to Europe from most points in South America are less frequent than flights to the United States with connections to European destinations. When shipping to Europe, many South American exporters prefer to ship their roses via Miami airport, where there are refrigeration facilities and flights to European destinations each day. If there are no delays, this transportation scheme works well for Colombia. For other Latin American countries, such as Ecuador and Costa Rica, the distance to Europe is greater and the number of flights with available freight space less frequent. Shipments without delay are crucial to all exporters of fresh cut roses, because roses are a more delicate flower and have a shorter vase life than carnations, chrysanthemums, or many other fresh cut flowers.

As expected, the costs of shipping roses from Bogota to Miami is much less than shipping from Bogota to any city in Europe. In addition, it appears that the cost of shipping fresh cut roses to Europe via Miami is less expensive than shipping them directly to Europe from Bogota. According to Asocolflores and AFIF, the cost of shipping direct from Bogota to most major cities in Europe is \$1.86 per kilo. The average cost of shipping fresh cut roses from Bogota to Miami is approximately 63 cents per kilo. If the flowers are shipped from Miami to London, the additional cost to the Colombian exporter is 95 cents per kilo of roses, which includes an added transfer cost of 20 cents. The total cost of shipping a kilo of fresh cut roses through this channel is \$1.58, which is 28 cents less than shipping them directly from Bogota to London. Asocolflores and AFIF also state that the cost of shipping fresh cut roses direct from Bogota to more remote cities in Europe, such as Amsterdam, is approximately \$2.00 per kilo.

Industry sources have commented on a second factor that they believe prevents Latin American producers from exporting a higher percentage of their fresh cut flowers to Europe. Flowers generally sell for a higher price in Europe because demand there is generally greater. Many Latin American producers are therefore concerned that if they ship more than 5 percent of their U.S. sales to a third-country market, then this will provide the groundwork for a less-than-fair-value sales allegation in the United States.<sup>1</sup>

Representatives of Asocolflores and AFIF have testified that the price an exporter receives for a product shipped to a third country is not

<sup>1</sup> Posthearing brief of Asocolflores and AFIF, p. 11. 6-8

sufficient evidence to support a dumping allegation when the product is perishable. In the case of flowers, which are sold on consignment in the United States, foreign growers must accept whatever price the market dictates before spoilage. In the United States, where demand is more cyclical and prices more volatile, foreign growers are often forced to accept a low price for their roses. This, they argue, is the underlying cause for the discrepancies between EC and U.S. prices.

Finally, the difference between the types of roses produced in the United States and South America and those demanded in Europe hinders exports to the EC. Europeans have traditionally preferred sweetheart roses of the nonred varieties, like those produced in the Netherlands and Spain. Israel, which is the leading nonmember supplier of fresh cut roses to the EC, also devotes a greater share of its production to sweetheart roses. Their colors include yellow, pink, and peach as well as red. Red roses reportedly account for less than 25 percent of Israeli exports to the EC.

U.S. and South American growers, in contrast, produce primarily red hybrid tea roses. Hybrid tea roses tend to have thicker stems and larger blooms and are not as popular in Europe. Asocolflores and AFIF report that many Colombian growers are in the process of learning how to produce more nonred varieties, a skill which has already been mastered by most U.S. growers. Both U.S. and South American growers are reportedly increasing their production of the nonred varieties. In the case of the U.S. growers, however, this is probably more in response to changing U.S. consumer preferences than to a desire to accommodate European preferences.

In conclusion, it is difficult to assess whether the EC tariff rate is the most important factor among those discussed in determining the world trade of roses. The depreciation of the dollar, for example, has had a significant impact on export of roses to the EC since 1985. The other factors, such as pricing practices and air freight rates, have had some effect but probably less than the EC tariff rate or the dollar's depreciation.

Although the importance of each variable can change over time, the EC tariff structure is the one variable that has exerted consistent, demonstrable impact on EC imports of fresh cut roses. As figures 6-3 through 6-7 illustrate, the effects of the dual EC tariff system can, in part, be isolated by showing monthly import data over a period of several years. These data show that exports to the EC declined dramatically during the summer growing period when the tariff rate was raised to 24 percent ad valorem, and increased almost immediately when the tariff rate was lowered to 17 percent ad valorem.

It is true that the domestic supply of roses in the EC is higher in the summer than in the winter, while consumer demand for roses in the EC is somewhat lower in the summer than in the winter. This phenomenon, irrespective of the higher tariff rate, has had some impact on EC import demand for roses during the summer growing season; nevertheless, the increase in the EC's domestic supply of roses during the summer is not estimated to be large enough to be the only cause of the sharp decrease in imports during those months. In the United States, fresh cut rose production is also higher in the summer, while consumer demand for roses in the summer is even lower than it is in the EC; nevertheless, U.S. imports remain relatively stable during the summer, because the U.S. tariff rate remains at 8 percent ad valorem throughout the entire year.





## Chapter 7

# Unfair Trade Practices and Foreign Barriers to Trade That Impede the Marketing Abroad of U.S. Produced Roses

## Government Programs as Barriers to Trade

### Introduction

In the past, representatives of the U.S. flower- and rose-growing industries have alleged that some foreign governments are providing producers of certain fresh cut flowers, including roses, with a variety of benefits. These alleged benefits include reduced loan rates, tax rebates, energy conservation inducements, and research grants. U.S. industry representatives argue that foreign producers with access to these kinds of benefits can have a competitive price advantage vis-a-vis U.S. producers. This price advantage, they argue, applies not only in the U.S. market, but in other markets as well.

The discussion below provides a general overview of the different kinds of programs that have been alleged to bestow benefits on growers of certain flowers in certain countries. Some of these alleged benefits have been found to constitute countervailable subsidies under section 701 of the Trade Act of 1930 (the act), whereas others have not.

In 1986, the Floral Trade Council filed countervailing duty petitions with the International Trade Administration (ITA) of the U.S. Department of Commerce and the Commission. The Floral Trade Council alleged that imports of certain fresh cut flowers other than roses were benefiting from subsidies and were a cause of material injury, or threat of injury, to the domestic industry. The countries under investigation included the Netherlands, Canada, Israel, Colombia, Costa Rica, Mexico, Ecuador, Chile, Peru, and Kenya. The ITA completed its investigations and then published the results in the *Federal Register* in January, February, and March of 1987. The Commission found that certain subsidized imports were a cause of injury or threat thereof, and subsequently countervailing duties were imposed on those imports. Copies of these notices, as well as copies of notices showing the results of other pertinent ITA investigations, are provided in appendix C at the end of this report.

Most of the information presented in this chapter is based on the final subsidy determinations of the ITA, as shown in the

*Federal Register* notices. During the course of this study, the Commission has not investigated any of these programs and has made no determinations of whether they constitute subsidies. Furthermore, the majority of the determinations cited in this chapter have involved subsidies on imports of fresh cut flowers other than roses.

After a determination that imports of a product benefit from a program that constitutes a subsidy under U.S. law, a countervailing duty in an amount equal to the subsidy is imposed upon imports of the product into United States.<sup>1</sup> When exporting products to other countries, however, foreign producers may or may not face penalties when using the same programs that were found to be countervailable in the United States. Therefore, U.S. producers that are interested in marketing their roses abroad may face considerable competition from foreign producers that are benefiting from government-sponsored programs. Representatives of foreign producers, however, contend that U.S. exports of fresh cut roses are small for reasons other than the existence of nontariff trade barriers. These sources allege that the U.S. rose-growing industry has chosen to devote most of its resources to supplying the U.S. market and has therefore not developed an orientation towards exporting.

### The Netherlands

In 1986, the Floral Trade Council, on behalf of U.S. producers of fresh cut flowers (but not including fresh cut roses), filed a petition with the U.S. Department of Commerce and the Commission alleging that the Government of the Netherlands was providing subsidies to producers of certain fresh cut flowers and that imports of those flowers were a cause of material injury, or threat of such injury, to the U.S. industry. In February 1987, the ITA completed its investigation into the alleged subsidies provided to Dutch producers of fresh cut miniature carnations, standard chrysanthemums, alstroemeria, and gerbera (603.10 of the HTS). A complete review of the results of the investigation was published in 52 F.R. 3301, which has been provided in app. C, pp. C-2 to C-14). The following is a list of the programs that the ITA determined to confer subsidies to growers of the aforementioned flowers under section 701 of the Trade Act of 1930:

- (1) Natural Gas Provided at Preferential Rates
- (3) Glasshouse Enterprises Program
- (4) Aids for the Reduction of Glass Surface
- (5) Steam Drainage Replacement System

<sup>1</sup> If the country is a signatory to the subsidies code of the General Agreement on Tariffs and Trade (GATT), or if the goods are imported free of duty, it is entitled to an injury determination by the U.S. International Trade Commission.

(2) Aids for the Creation of Cooperative Organizations

(6) Guarantee Fund for Agriculture

In its prehearing brief filed with the Commission on January 4, 1989, Roses, Inc., stated its concern over the natural gas subsidies and investment tax credits allegedly bestowed by the Government of the Netherlands on Dutch producers of fresh cut roses and found by Commerce to be provided to growers of other cut flowers. Roses, Inc., stated that such benefits give the Dutch rose growers an "unfair competitive advantage in the principal export markets [such as Canada and the EC] where, under fair trade conditions, U.S. rose growers could compete."<sup>1</sup> In his posthearing statement, Jan Van Doesburg, Chairman of the Flower Marketing Council of Holland, stated that the natural gas subsidy had been eliminated and that no internal barriers to trade exist in the Netherlands.<sup>2</sup>

### Canada

Although Canada is not a significant producer of fresh cut roses or other cut flowers, it is a principal export market for U.S. roses. In May 1986, the Floral Trade Council filed a petition on behalf of U.S. growers of certain fresh cut flowers other than roses alleging that certain Canadian exports benefited from government subsidies as defined in section 701 of the Act and material injury resulted therefrom. In January 1987, the ITA completed its investigation into the alleged subsidies available to producers of fresh cut miniature and standard carnations and found only one program to confer a subsidy (see 52 F.R. 2134, as shown in app. C, pp. C-15 to C-19). The Commission subsequently found the requisite injury and ITA issued a countervailing duty order.

Roses, Inc. argued that subsidies such as this one are not "flower specific" and that their existence is "a persuasive indication that similar programs apply to roses."<sup>3</sup>

### Israel

Israel is a principal exporter of fresh cut roses and other cut flowers to the EC, and their production practices are of special interest to the U.S. industry. Both the Floral Trade Council and Roses, Inc., have filed petitions in the past with Commerce and the Commission requesting an investigation into the alleged subsidies available to Israeli growers and alleged material injury to the U.S. industries. Details of the results of two of the investigations—the first filed by Roses, Inc., concerning allegedly subsidized rose imports and

completed in December 1986, and the other filed by the Floral Trade Council concerning allegedly subsidized imports of other fresh cut flowers and completed in February 1987—are given in the *Federal Register* notices shown in app. C, pp. C-20 to C-31.

In its prehearing brief, Roses, Inc., stated that "U.S. rose growers competing against roses from Israel in third country markets face a competitive disadvantage" because of the subsidies bestowed on Israeli rose growers by their Government.<sup>4</sup>

### Colombia

The Department of Commerce investigated allegations made by the Floral Trade Council and Roses, Inc., that Colombian growers of roses and certain other flowers had been receiving benefits from their Government that constitute subsidies within the meaning of section 701 of the Act. In March 1987, the ITA published the results of its preliminary review of an agreement suspending the investigations that has been effect since January 1983 (48 F.R. 2158). The results of the review were published in 52 F.R. 6206 and are provided in app. C, pp. C-32 to C-33.

The suspension agreement, which covers investigations into allegedly subsidized imports of fresh cut roses and certain other cut flowers, was signed by the Colombian flower producers, is enforced by the Colombian Government, and is monitored annually by the U.S. Department of Commerce.<sup>5</sup> Colombian fresh cut flower producers are restricted from using these programs when exporting fresh cut roses or certain other cut flowers to the United States. Roses, Inc., alleged that in several instances the Colombian growers have been able to circumvent the effect of the suspension agreement by increasing rebates and subsidies on exports to third country markets.<sup>6</sup> Asocolflores and AFIF in their briefs to the Commission argued that such rebates and subsidies on exports to third country markets have not increased.<sup>7</sup>

### Costa Rica

The fresh cut flower industry in Costa Rica is small in comparison with that of Colombia, but spokesmen for certain importing firms in Miami, FL, report that the quality is excellent and the potential for long-term growth is good. Based on a petition filed by the Floral Trade Council, the ITA in 1987 examined imports of fresh cut carnations and pompon chrysanthemums and found that they benefited from two programs that constituted subsidies under U.S. law. See 52 F.R.

<sup>1</sup> Prehearing brief submitted by Roses, Inc., pp. 42-43.

<sup>2</sup> Posthearing brief of the Flower Marketing Council of Holland, pp. 17 and 18.

<sup>3</sup> Prehearing brief submitted by Roses, Inc., p. 40.

<sup>4</sup> Prehearing brief submitted by Roses, Inc., p. 39.

<sup>5</sup> See ITA notice in 48 F.R. 2158 and posthearing brief of Asocolflores and AFIF, app. A, p. 1.

<sup>6</sup> Prehearing brief submitted by Roses, Inc., p. 39.

<sup>7</sup> Posthearing brief of Asocolflores and AFIF, app. A, pp. 1-2.

32030 in app. C, pp. C-34 to C-43 for a more detailed discussion of the investigation. The Government of Costa Rica has negotiated a suspension agreement with Commerce in which the growers have agreed to renounce any benefits from the alleged subsidies.

### *Mexico*

According to the Mexican Association of Producers and Exporters of Ornamental Flowers (ANAPROMEX), Mexico is in the process of developing its full potential as a world producer of fresh cut roses. The primary and secondary export markets for Mexican roses are the United States and Canada, respectively. A submission from ANAPROMEX<sup>1</sup> and data gathered by the Commission staff show that Mexican exports of fresh cut roses to the EC are increasing at a substantial rate.

On September 30, 1986, the Floral Trade Council and Roses, Inc., filed a petition on behalf of U.S. growers alleging that imports of fresh cut roses, carnations, and chrysanthemums from Mexico were benefiting from subsidies provided by the Mexican Government (48 F.R. 49531). The ITA investigated the allegations and determined that the Mexican fresh cut flower producers were not receiving any subsidies within the meaning of section 701 of the Act (see 49 F.R. 15007 in app. C, pp. C-44 to C-48).

### *Chile*

Chile is one of the smaller Latin American producers of fresh cut flowers. Shipments of roses to the United States are very small, and shipments to Europe are estimated to be negligible. In January 1987, the ITA completed an investigation into the alleged subsidies provided to Chilean producers of carnations and found two programs that constituted subsidies under U.S. law (see 52 F.R. 3313 in app. C, pp. C-49 to C-52). These were the Stamp and Seal Tax Exemption for Exporters (SST) and the Export Rebate Program (simplified drawback).

### *Peru*

Flower production in Peru is highly concentrated, with one firm, Flores Esmeralda, accounting for perhaps 95 percent of all fresh cut flower production. At this time, little is known about the production of roses in Peru, but available data indicate that the majority of fresh cut rose exports are destined for the U.S. market.

In February 1987, the ITA completed its investigation into the alleged subsidies provided to Peruvian producers of miniature carnations, pompom chrysanthemums, and gypsophila. For a

<sup>1</sup> Prehearing brief submitted by ANAPROMEX, p. 27.

more detailed discussion of the ITA's findings, see 52 F.R. 6837 in app. C, pp. C-53 to C-56. The ITA has never conducted an investigation into imports of fresh cut roses from Peru.

### *Ecuador*

Ecuador is a small producer of fresh cut roses and other cut flowers. In May 1986, the Floral Trade Council filed a petition with Commerce and the Commission alleging that the Government of Ecuador was providing subsidies to carnation and chrysanthemum growers and that imports of those flowers were causing material injury, or threatening such injury, to the U.S. industry. The ITA investigated the allegations and found that certain growers of those flowers had received subsidies from the Government of Ecuador under two programs. A description of the programs, along with other findings of the ITA, can be found in 52 F.R. 1362 in app. C, pp. C-57 to C-64.

## **Other Nontariff Barriers to Trade**

### *Phytosanitary regulations*

Domestic rose growers and foreign producers and importers have asserted that some countries, notably Japan, use phytosanitary regulations to protect their fresh cut flower industry from import competition. Almost every rose-producing country has established regulations regarding the importation of vegetative plant materials to prohibit the introduction of plant pests and diseases. Certain members of the U.S. industry state that "inspection procedures in Japan are so exacting that shipments are effectively destroyed. It takes a long time to clear Customs, apart from the equally long delays awaiting inspection for insects."<sup>2</sup>

Representatives of Asocolflores and AFIF stated at the public hearing that Japan places "obstacles" on the importation of Colombian and other South American fresh cut roses.<sup>3</sup> In their prehearing brief, they stated that "Japan's rose fumigation and agricultural inspection requirements, as well as the rough handling that imported cut flowers receive at Japanese ports are serious nontariff barriers to free world trade in roses. The implementation of Japan's 'Plant Quarantine Act' in particular serves no legitimate health interest and is designed solely to protect Japanese flower growers."<sup>4</sup>

All sources seemed to agree that the quarantine inspection practices in Japan result in

<sup>2</sup> Written testimony of Arne Thirup, submitted at the public hearing on Jan. 18, 1989, p. 10.

<sup>3</sup> Transcript of hearing, p. 147.

<sup>4</sup> Prehearing brief of Asocolflores and AFIF, p. 13 and posthearing brief, p. 7 of appendix. Asocolflores and AFIF are trade associations representing Colombian growers and exporters of fresh cut flowers.

extensive damage to imported product and reduce the overall attractiveness to exporting fresh cut flowers to Japan. Another source representing Asocolflores commented, however, that Japan has recently begun a pre-inspection program in the Netherlands, which permits Dutch flower growers to receive clearance for their flowers before shipment. It is hoped that this practice will be extended to other countries in the near future.

*Duties assessed on the basis of cost, insurance, and freight (c.i.f.)*

The c.i.f. value represents the import value of a product at the first port of entry, and includes all freight, insurance, and other charges incurred in bringing the merchandise from the country of exportation. It is the method that most countries use when assessing duties on imported goods,

such as fresh cut roses. The United States computes duty payments on the basis of free alongside, or f.a.s., value. It is based on the purchase price, i.e., the actual transaction value of the product and includes all charges incurred in placing the merchandise alongside the carrier at the port of exportation, and not the port of entry. The difference in the two methods may appear negligible; however, several exporters of fresh cut flowers have reported that the differences in assessment practices between the United States and the EC only widens the gap between the two duty rates. On a shipment of fresh cut roses to the EC, the difference at certain times of the year could add up to an additional 3 to 4 cents per stem at the wholesale level. The U.S. practice of assessing duties on the f.a.s. value could therefore be seen by foreign exporters as an added incentive to ship fresh cut roses to the United States and avoid extra duty charges in other countries.

**APPENDIX A**  
**PERTINENT SECTIONS OF THE OMNIBUS TRADE AND**  
**COMPETITIVENESS ACT OF 1988**

PUBLIC LAW 100-418 [H.R. 4848]; August 23, 1988

## OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

*For Legislative History of Act, see Report for P.L. 100-418  
in U.S.C.C. & A.N. Legislative History Section.*

*An Act to enhance the competitiveness of American industry, and for other purposes.*

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Omnibus Trade and Competitiveness Act of 1988”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

Sec. 2. Legislative history of H.R. 3 applicable.

### TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

Sec. 1001. Findings and purposes.

#### Subtitle A—United States Trade Agreements

##### PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Sec. 1101. Overall and principal trade negotiating objectives of the United States.

Sec. 1102. Trade agreement negotiating authority.

Sec. 1103. Implementation of trade agreements.

Sec. 1104. Compensation authority.

Sec. 1105. Termination and reservation authority; reciprocal nondiscriminatory treatment.

Sec. 1106. Accession of state trading regimes to the General Agreement on Tariffs and Trade.

Sec. 1107. Definitions and conforming amendments.

##### PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Sec. 1111. Hearings and advice.

##### PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

Sec. 1121. Implementation of Nairobi Protocol.

Sec. 1122. Implementation of United States-EC Agreement on citrus and pasta.

Sec. 1123. Extension of International Coffee Agreement Act of 1980.

Sec. 1124. Negotiations on currency exchange rates.

Sec. 1125. Reports on negotiations to eliminate wine trade barriers.

#### Subtitle B—Implementation of the Harmonized Tariff Schedule

Sec. 1201. Purposes.

Sec. 1202. Definitions.

Sec. 1203. Congressional approval of United States accession to the Convention.

Sec. 1204. Enactment of the Harmonized Tariff Schedule.

Sec. 1205. Commission review of, and recommendations regarding, the Harmonized Tariff Schedule.

Sec. 1206. Presidential action on Commission recommendations.

Sec. 1207. Publication of the Harmonized Tariff Schedule.

Sec. 1208. Import and export statistics.

Sec. 1209. Coordination of trade policy and the Convention.

Sec. 1210. United States participation on the Customs Cooperation Council regarding the Convention.

Sec. 1211. Transition to the Harmonized Tariff Schedule.

Sec. 1212. Reference to the Harmonized Tariff Schedule.

Sec. 1213. Technical amendments.

Sec. 1214. Conforming amendments.

Sec. 1215. Negotiating authority for certain ADP equipment.

Sec. 1216. Commission report on operation of subtitle.

102 STAT. 1107

**SEC. 4508. STUDY OF LAMB MEAT IMPORTS.**

(a) **STUDY**—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) **REPORT**.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

**SEC. 4509. ROSE STUDY.**

(a) **STUDY**.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

- (1) competitive factors affecting the domestic rose-growing industry, including competition from imports;
- (2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and
- (3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) **REPORT**.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

- (1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;
- (2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;
- (3) the United States Trade Representative;
- (4) the Secretary of Commerce; and
- (5) the Secretary of Agriculture.

(c) **REVIEW**.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.





**APPENDIX B**  
**NOTICE OF INSTITUTION OF INVESTIGATION NO. 332-263**

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

(332-263)

Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses

AGENCY: United States International Trade Commission

ACTION: Institution of investigation and scheduling of public hearing

EFFECTIVE DATE: October 21, 1988

SUMMARY: As required by section 4509 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. Law 100-418, 102 Stat. 110, approved Aug. 23, 1988), the Commission has instituted investigation No. 332-263 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of reporting on (1) the competitive factors affecting the domestic rose-growing industry, including competition from imports; (2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and (3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses. The 1988 Act requires that the Commission report the results of its investigation within 240 days of enactment, or by April 20, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen D. Burket; Agriculture, Fisheries, and Forest Products Division; U.S. International Trade Commission; Washington, D.C. 20436; telephone (202) 252-1318.

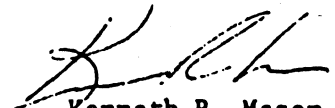
HEARING: A public hearing in connection with the investigation will be held January 18, 1989, in Washington, D.C. All persons will have the opportunity to appear by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, not later than noon January 4, 1989.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for

confidential business information, will be made available for inspection by the public. To be assured of consideration by the Commission, written statements should be received at the earliest practicable date, but not later than February 1, 1989. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 252-1809.

By order of the Commission.



Kenneth R. Mason  
Secretary

Issued: October 21, 1988



**APPENDIX C**  
**FEDERAL REGISTER NOTICES REGARDING COUNTERVAILING DUTY**  
**INVESTIGATIONS CONDUCTED BY THE INTERNATIONAL TRADE**  
**ADMINISTRATION OF THE U.S. DEPARTMENT OF COMMERCE**

International Trade Administration  
(C-421-601)

**Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers From the Netherlands**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in the Netherlands of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 3.48 percent *ad valorem*.

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from the Netherlands that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** February 3, 1987.

**FOR FURTHER INFORMATION CONTACT:** Lori Cooper, Eleanor Shea, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW., Washington, DC 20230; telephone (202) 377-8320, 377-0184, or 377-2438.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in the Netherlands of cut flowers. For purposes of this investigation, the following programs are found to confer subsidies:

- Natural Gas Provided at Preferential Rates.
- Aids for the Creation of Cooperative Organizations.
- Glasshouse Enterprises Program.
- Aids for the Reduction of Glass Surface.
- Steam Drainage Systems.
- Guarantee Fund for Agriculture.

We determine the estimated net subsidy to be 3.48 percent *ad valorem*.

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in the Netherlands of cut flowers receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21958, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since the Netherlands is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from the Netherlands materially injure, or threaten material injury to, a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable

indication that an industry in the United States is materially injured by reason of imports from the Netherlands of the subject merchandise (51 FR 25751, July 16, 1986).

On June 20, 1986, we presented a questionnaire concerning petitioner's allegations to the Government of the Netherlands and to the Delegation of the Commission of the European Communities (EC), in Washington, DC. According to the Government of the Netherlands, there are over 8,000 flower growers in the Netherlands. Therefore, we requested that the government provide aggregate information in the questionnaire responses. We received the government response on August 8, 1986, and the EC response on August 11, 1986. We sent a supplemental questionnaire to the Government of the Netherlands on September 5, 1986. We received the government's supplemental response on September 26, 1986, and received an additional submission, containing several amendments to the supplemental response, on October 2, 1986.

On August 11 and December 24, 1986, we received letters on behalf of the FC and the Government of the Netherlands, respectively, challenging the standing of the Floral Trade Council and requesting dismissal of the petition. As we have previously stated, see, e.g., *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members opposing an investigation provide a clear indication that there are grounds to doubt a petitioner's standing, the Department will review whether the opposing parties do, in fact, represent a major proportion of the domestic industry. In this case, we have not received any opposition from the domestic industry.

On the basis of the information contained in the responses to our questionnaires, we made a preliminary affirmative countervailing duty determination on October 20, 1986 (51 FR 37944, October 27, 1986).

Based upon the request of petitioner, on November 26, 1986, we extended the deadline dates for the final determinations in the countervailing duty investigations of certain fresh cut

flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile to correspond to the date of the final determinations in the antidumping duty investigations of the same merchandise, pursuant to section 705(a)(1) of the Act, as amended by section 806 of the Trade and Tariff Act of 1984 (Pub. L. 98-573) (51 FR 43649, December 3, 1986). On January 9, 1987, we extended the deadline date for the countervailing duty determinations on standard carnations from Chile and certain fresh cut flowers from Israel and the Netherlands to coincide with the postponement of the final antidumping duty determination on standard carnations from Chile, in accordance with section 705(a)(1) as amended, 19 U.S.C. 1671d(a)(1) (52 FR 1515, January 14, 1987).

On November 20 and 21, 1986, we verified the response of the EC in Brussels, Belgium. From November 24 through December 5, 1986, we verified the responses of the Government of the Netherlands in The Hague. We received amended responses from respondents on December 31, 1986, January 2, 13, 14, and 16, 1987.

At the request of petitioner and respondents, a public hearing was held on December 17, 1986, to afford interested parties an opportunity to present views orally in accordance with our regulations (19 CFR 355.35). Petitioner and respondents filed case briefs on December 10, 1986, post-hearing briefs on December 24, 1986, and comments on the verification reports on January 21, 1987. We received additional comments from the Government of the Netherlands on December 24, 1986 and January 20 and 23, 1987.

#### Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard chrysanthemums, alstroemeria, and gerbers, currently provided for in item 192.21 of the TSUS.

#### Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 28, 1984).

For purposes of this final determination, the period for which we are measuring subsidies (the review

period) is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaires, verification, and comments filed by petitioner and respondents, we determine the following:

#### 1. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to producers or exporters in the Netherlands of cut flowers under the following programs:

##### A. Natural Gas Provided at Preferential Rates

Petitioner alleges that the Dutch gas company, partly owned by the Government of the Netherlands, supplies natural gas at preferential rates to the greenhouse industry which includes the producers of cut flowers.

Natural gas in the Netherlands is sold directly to major customers by the N.V. Nederlandse Gasunie (Gasunie). The Agricultural Industrial Board, or "Landbouwschap", a quasi-governmental body, acts as a negotiating body with Gasunie to determine the prices and general terms of gas delivery for Dutch horticulturalists (i.e., greenhouse growers).

Gasunie is 40 percent owned by DSM Aardgas (a company wholly-owned by the Government of the Netherlands), 10 percent by the Government of the Netherlands, 25 percent by Shell Nederland, and 25 percent by Esso Nederland N.V. While the Government of the Netherlands does not own a controlling interest in Gasunie, it plays a significant role in the setting of natural gas prices. The Minister of Economic Affairs reserves the right to approve selling prices and terms of delivery for supplies to public distributors in the Netherlands, large export contracts, and contracts between Gasunie and the Landbouwschap. In this respect, the Minister's right forms part of the system of controls normally applied to prices.

The Landbouwschap is a statutory trade organization created under the Industrial Organizations Act. Its chairman is approved by the Government of the Netherlands and its purpose is to represent the economic and political interests of the agricultural sector in the Netherlands.

At verification, we found that natural gas prices are based on consumption levels which are broken down into five categories or "zones"—zones "a" through "e". Zone "a" users are small gas consumers, such as homeowners or small businesses which use less than 170,000 cubic meters of gas per year; zone "e" users are the largest

consumers, such as industries which use more than 50 million cubic meters of gas per year. Zone "a" users pay the highest price per cubic meter; zone "e" the lowest.

One of Gasunie's primary concerns is not to lose customers to energy substitutes, primarily heavy or light fuel oil. Therefore, the rate for each zone is based on the world market price of heavy or light fuel oil. The price of gas to all users is less than, equal to, or greater than the calorifically equivalent fuel oil (light or heavy) price, depending on the readiness of various buyers to switch to, and maintain their usage of, the substitute fuel. For example, the zone "a" rate is tied to the world market price of light fuel oil, while the zone "b" through "e" rates are tied to the world market price of heavy fuel oil. Zone "d" is the point of parity between heavy fuel oil and natural gas. The zone "b", "c", and "e" rates are tied to the world market price of heavy fuel oil, adjusted to account for the cost of converting to and using the substitute fuel.

The rate for each zone is set on a quarterly basis and is based on the world market prices of light and heavy fuel oil during the previous quarter. Gas prices are determined by this schedule for all users with the following exceptions which are determined by separate contracts: prices for exports, prices paid by local gas distribution companies, and prices paid by greenhouse growers.

The Board of Directors of Gasunie has twelve seats, six of which are held by private stockholders (Shell Nederland and Exxon Nederlandse N.V.), and six of which are held by officials appointed by the government. Gas prices, and the above-mentioned contracts, require a 75 percent majority approval of the Board and are subject to the final approval of the Minister of Economic Affairs.

As noted above, the greenhouse growers, through the Landbouwschap, negotiated a contract with Gasunie for their natural gas. Under the contract, greenhouse growers pay the zone "d" rate plus 0.5 guilder cents per cubic meter of gas. Absent the contract, most greenhouse growers, given their individual consumption levels, would fall in zone "a" or zone "b", with a few falling in zone "c".

In the 1984 contract negotiated with Gasunie by the Landbouwschap on behalf of greenhouse growers, a maximum ceiling price was established. At verification, we found that, during the first three quarters of 1985, the ceiling price was lower than the zone "d" plus 0.5 guilder cents rate. In the fourth quarter of 1985, the ceiling price

was higher than the zone "d" plus 0.5 guilder cents rate. No other group in the Netherlands has ever benefitted from such a ceiling price. At verification, we were informed for the first time that, in September 1985, Gasunie sent a letter to the Landbouwschap withdrawing the maximum ceiling price from the contract, effective at the start of the fourth quarter. The Landbouwschap objected to this unilateral withdrawal.

Because greenhouse growers are the only group in the Dutch economy that has such a contract, we determine that the Government of the Netherlands, through Gasunie and the Landbouwschap, provides natural gas under this contract to "a specific enterprise or industry, or group of enterprises or industries" within the meaning of section 771(5)(B) of the Act. The contract constitutes governmental provision of natural gas because the Government of the Netherlands owns 50 percent of Gasunie, the Minister of Economic Affairs must approve the contract between Gasunie and the Landbouwschap, and the Landbouwschap itself is a quasi-governmental organization. Furthermore, the contract involves the provision of natural gas to a specific industry because, while the Landbouwschap represents the interests of the entire agricultural sector, this contract was negotiated on behalf of a specific group within agriculture, that is, greenhouse growers.

In order to determine whether the prices paid for natural gas under this contract are preferential within the meaning of section 771(5)(B)(ii) of the Act, we examined both prices established in the contract; that is, the zone "d" rate plus 0.5 guilder cents, and the ceiling price. With respect to the zone "d" rate plus 0.5 guilder cents, we determine that this price is not preferential for the following reasons.

We recognize that a contract providing gas to greenhouse growers as a group, at a lower rate than they would pay individually based on consumption, does not necessarily, in and of itself, constitute preference. The contract specifies that greenhouse growers pay the zone "d" rate plus 0.5 cents per cubic meter of gas. Yet, based on total collective consumption, greenhouse growers would be eligible for the zone "e" rate, which is lower than the zone "d" plus 0.5 guilder cents rate. Given this high level of collective consumption, it is in the interest of greenhouse growers to band together to negotiate a contract with the Landbouwschap to obtain the lowest possible gas rate. Gas constitutes a significant portion of the

greenhouse growers' cost of production. Additionally, greenhouse growers have, over the years, developed and retained the ability to convert relatively easily from gas to oil heating systems if the economics of fuel usage justify the change. Furthermore, greenhouse growers constitute a well-organized group of consumers with considerable bargaining power. Greenhouse growers in the Netherlands traditionally have banded together for purposes of marketing and distributing their products through the auction system. From the standpoint of Gasunie, it is in the commercial interest of its owners to provide greenhouse growers with gas at the zone "d" plus 0.5 guilder cents rate because this reflects the highest price Gasunie can charge without losing greenhouse customers to alternative fuel sources. Therefore, the provision in the contract which stipulates the zone "d" rate plus 0.5 guilder cents per cubic meter for greenhouse growers can be justified by economic considerations and we do not consider this a preferential price.

However, with respect to the ceiling price in the contract, we determine that this price is preferential within the meaning of section 771(5)(B)(ii) of the Act. First, greenhouse growers are the only group of gas consumers within zone "d" that benefits from a price ceiling. Indeed, they are the only group throughout the Dutch economy that benefits from a ceiling price. The existence of the price ceiling constitutes preferential treatment because comparable users are denied such a provision. Although respondents argue that the ceiling price is a negotiated contract price, no ceiling price is in effect for other zone "d" users that consume a comparable amount of natural gas and that, presumably, have comparable bargaining power to negotiate a ceiling price. Therefore, the inclusion of the ceiling price in the contract cannot be considered non-preferential when no other gas users are enjoying the same price ceiling.

When zone "d" rates increase above the ceiling price, the price ceiling constitutes the provision of a good by the Government of the Netherlands through Gasunie to greenhouse growers at a price that is lower than the price charged by the government to other users of gas within the Netherlands. Thus, the ceiling price constitutes price discrimination by the government. Accordingly, we determine that the ceiling price constitutes the provision of a good at a preferential rate.

To calculate the benefit to greenhouse growers under this program, we took the

difference between the price of gas actually paid by greenhouse growers during 1985 and the zone "d" plus 0.5 guilder cents price they would have had to pay under the contract absent the ceiling price. We allocated this amount over total sales of greenhouse growers during the review period. This resulted in an estimated net subsidy of 2.45 percent *ad valorem*.

Respondents have requested that we establish a separate deposit rate reflecting the withdrawal of the maximum ceiling price by Gasunie. It is our policy to take into account verified program-wide changes that occur prior to our preliminary determination.

Although we found at verification that Gasunie sent a letter to the Landbouwschap in September 1985 withdrawing the ceiling price, it was a unilateral withdrawal contested by the Landbouwschap. No new contract has been signed between the parties agreeing to the withdrawal and, therefore, the current contract technically still includes the maximum ceiling price for greenhouse growers. Accordingly, we cannot consider the unilateral withdrawal of the ceiling price from the contract to be a program-wide change. Thus, the fact that greenhouse growers may not currently be enjoying benefits under this program because the zone "d" rate plus 0.5 guilder cents is currently lower than the ceiling price is irrelevant to our determination.

#### B. Aids for the Creation of Cooperative Organizations

Petitioner alleges that Dutch auction houses receive funds from both the European Community (EC) and the Government of the Netherlands for the creation of cooperative organizations. Petitioner states that a major proportion of EC flowers passes through Dutch auction houses, which are flower grower cooperatives. Petitioner further contends that these auction houses are the exclusive selling agents for the member growers and form cartels to regulate the industry.

Under EC Regulation 355/77, grants have been provided since 1978 by the EC through the Agricultural Guidance and Guarantee Fund with matching grant contributions from EC member states. The purpose of the program is to improve the processing, marketing, and distribution of agricultural products in member states.

This grant program has two levels. First, there is a "program" level whereby member states submit sectoral program proposals to the EC for approval. Programs are generally approved for a



three- to five-year period. While funding is guaranteed for investment projects under approved programs for the life of the program, the level of funding provided each year is determined annually by the EC.

The second level is the "project" level whereby companies or organizations submit specific investment project proposals to their member state governments, which, in turn, pass the proposals on to the Fund for consideration. Only when there is an approved program will the EC accept and consider specific investment project applications.

Project grants are paid in two installments. Fifty percent of the grant is paid upon certification that half of the investment project has been completed, and the remainder of the grant is paid upon certification that the entire project has been completed. Grant recipients must complete projects within four years of the date of approval of the grant. Before this two-level funding system became fully operational in 1980, member state governments could also submit specific investment project proposals for funding.

During verification, we found that the Government of the Netherlands submitted a program proposal to the EC in 1979 for flower auctions. In 1980, the EC approved the program for a four-year duration. This program terminated at year-end 1984; however, project applications submitted to the EC by December 1984 were eligible for, and received, grant approval in June 1985. At verification, we found that grants are still being disbursed under the flower auction program for investment projects approved in June 1985 or previously. In February 1985, the Government of the Netherlands requested an extension of the flower auction program, but withdrew this request in March 1986. In addition, flower auctions also had projects approved in 1978 and 1979 during the transition period before the two-level funding system became operational in 1980.

Since 1978, several program proposals have been submitted by the Government of the Netherlands and have been approved for products including fruits, vegetables, flowers, nursery products, crop seeds, grass seeds, potatoes, cheese, milk, beef, pork, poultry, veal, and fish. However, only a few programs are submitted and approved each year and a limited number are in effect at the same time. For example, in 1980, the year in which the program for flower auctions was approved, only three other programs were approved, two of which pertained to fruit and vegetables and one which pertained to beef

slaughterhouses. Even if we look at a three-year time span (e.g., 1979-1981), we find that not all agricultural activities, or even a wide range of agricultural activities, received approval under this program. For 1978 and 1979, the two years prior to the approved flower auction program, our analysis of the EC's statistical reports also shows that the Dutch projects funded did not encompass all agricultural activities, or even a wide range of agricultural activities. Moreover, there are no standard criteria established by the Government of the Netherlands or the EC for selection of either sectoral programs or projects under the Aids for the Creation of Cooperative Organizations program.

Because the Government of the Netherlands selects only certain activities and/or products within the agricultural sector for which it proposes a program to the EC for funding, we determine that this grant program is administered in such a way as to be limited to a specific enterprise or industry, or group of enterprises or industries in the Netherlands and, therefore, is countervailable. Furthermore, because the Government of the Netherlands limits its selection of programs to be submitted to the EC for consideration, and because we saw no evidence of standard criteria applied in the approval of programs by the EC, it follows that the grants approved and disbursed by the EC are also limited to a specific group of enterprises or industries within the agricultural sector of the Netherlands and are, therefore, countervailable.

To calculate the benefit from this program, we followed the grant methodology outlined in the Subsidies Appendix. We took the total value, in guilders, of grants given in each year to flower auction houses under this program and allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector as determined under the U.S. Internal Revenue Service's Asset Depreciation Range System. Although the flower auction program terminated in 1984 and no grants were approved after June 1985, benefits are still accruing from these grants under our methodology. For the years prior to 1982, we used as the discount rate, the average commercial bond rate in the Netherlands, as reported in the *OECD Financial Statistics, 1985*. For the years 1982 through 1985, we used as the discount rate, commercial loan rates published by the Netherlands Bank (the Central Bank). We then took the total of the 1985 benefits from all of these grants and

divided it by total flower auction sales during the review period. This resulted in an estimated net subsidy of 0.17 percent *ad valorem*.

#### C. Glasshouse Enterprises Program

Petitioner alleges that producers of cut flowers in the Netherlands are benefitting from a grant provided by the Minister for Agriculture and Fisheries to the "gardening sector." This grant was provided for research and investment in energy conservation in glasshouse enterprises.

At verification, government officials stated that the Glasshouse Enterprises Program was part of a national energy conservation policy developed by the Ministry of Economic Affairs, and that other government ministries develop and implement specific objectives and programs for the particular sectors or groups falling under their jurisdiction. While there may be a general national energy conservation policy, we saw no evidence of a coordinated national program under which the Glasshouse Enterprises Program was funded or administered, nor could we tie the funds authorized under this program to ministerial budget allocations for energy activities.

Under the Glasshouse Enterprises Program, the Minister of Agriculture and Fisheries appropriated 300 million guilders (\$300 million), of which \$270 million was to be spent to stimulate private investment in energy-saving methods in the horticultural industry and \$30 million was to be spent on research. (See Section II.A. of the notice for a complete discussion of the Glasshouse Enterprises Research Grants.) The program was scheduled to terminate in 1984; however, the fund was not fully used, and was extended for one year to June 1985. During verification, we found that grants under this program were still being provided during 1986. Officials from the Ministry of Agriculture and Fisheries explained that these grants were given on energy saving investment plans approved prior to the termination of the program and that funds under these plans could be disbursed in 1987 or later.

In order to receive grants for investments, applicants were required: (1) To have been professionally involved in agriculture, with at least one-half of their agricultural activities in the horticultural sector; (2) to have used at least 30,000 cubic meters of natural gas in 1980; and (3) to have realized at least a 20 percent energy savings by program's end.

Because this program was available only to greenhouses, we determine that

it was limited to a specific enterprise or industry or group of enterprises or industries and, as such, is countervailable.

We calculated the benefit under this program according to the grant methodology outlined in the Subsidies Appendix. For each of the years 1982 to 1985, we took the total amount of grants provided to all Dutch greenhouse growers under this program. We allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. Although this program officially terminated in June 1985, under our methodology, benefits are still accruing from these grants and, in fact, grants were still being provided in 1986. For the discount rate, we used the average commercial bond rate in the Netherlands for each year in which grants were provided. We took the sum of the 1985 benefit from all of these grants and divided it by total sales of greenhouses during the review period. This resulted in an estimated net subsidy of 0.80 percent *ad valorem*.

#### D. Aids for the Reduction of Glass Surface

Petitioner alleges that producers of cut flowers may benefit from the Government of the Netherlands' provision of aid for the destruction of unprofitable greenhouses.

As with the Glasshouse Enterprises Program discussed above, government officials stated that the Aids for the Reduction of Glass Surface program was part of a national energy conservation policy developed by the Ministry of Economic Affairs, under which other government ministries develop and implement specific objectives and programs for the particular sectors or groups falling under their jurisdiction. While there may be a general national energy conservation policy, we saw no evidence of a coordinated national program under which the Aids for the Reduction of Glass Surface program was funded or administered, nor could we tie the funds authorized under this program to ministerial budget allocations for energy activities.

The Aids for the Reduction of Glass Surface program was designed to increase the energy efficiency of glasshouses by dismantling existing glass and replacing it with modern, energy-saving glass. The expansion of the existing facility was prohibited. Grant recipients were required to sign an agreement with the Ministry of Agriculture and Fisheries stating that they would not increase the total glass surface area for a period of five years. Only glasshouse operators who had an

approved energy investment plan under the Glasshouse Enterprises Program (see Section I.C. of the notice) could apply for assistance for reducing glass surface area.

Applicants could obtain a grant of f12 per square meter of glass, up to a maximum of 15 percent of their total acreage, and up to a maximum acreage of 1,500 square meters. Payment of the grant was made upon completion of the dismantling. The program began on November 1, 1982, and terminated on November 1, 1984. Applications were not accepted after November 1, 1984; however, grants were paid out after November 1, 1984, for projects approved prior to that date. The dismantling of glass projects were supposed to be completed prior to January 1, 1985. At verification, we found that grants are still being paid out under this program.

Because this program was available only to glasshouses, we determine that it was limited to a specific enterprise or industry or group of enterprises or industries and, as such, is countervailable.

We calculated the benefit from these grants according to the grant methodology outlined in the Subsidies Appendix. For each of the years 1983 to 1985, we took the total amount of grants provided to all Dutch greenhouse growers under this program. We allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. Although this program terminated on November 1, 1984, under our methodology, benefits are still accruing from these grants. We used as the discount rate, the average commercial bond rate in the Netherlands for each year in which grants were provided. We took the sum of the 1985 benefit from all of these grants and divided it by total sales of greenhouses for the review period. This resulted in an estimated net subsidy of 0.01 percent *ad valorem*.

#### E. Steam Drainage Systems

Petitioner alleges that the Government of the Netherlands provides funds to greenhouse owners who install steam drainage systems and/or gas fired mobile furnaces.

During verification we found that the purpose of this program is to encourage efficient and effective methods of land disinfecting other than the use of methylbromide. In January 1981, the Government of the Netherlands banned the use of methylbromide as a means of soil disinfection due to the potential health hazards caused by the chemical. In December 1981, the Ministry of Agriculture and Fisheries established a

program making available cash grants to encourage the use of steam drainage as an alternative method of soil disinfection for greenhouses. At verification, we learned that greenhouse growers are the only users of steam drainage systems. Under this program, a greenhouse grower could receive a grant of up to 25 percent of the amount of his investment in steam drainage systems with a maximum of f1.50 per square meter of land on which the steam drainage system was installed.

Although the program began in December 1981, Article 7 of the applicable decree allowed for the retroactivity of the program to January 1, 1981 (the date the government banned the use of methylbromide). Greenhouse growers who had already switched to steam drainage systems prior to January 1, 1981 did not receive any assistance under this program. The program did not terminate on September 1, 1983, as originally scheduled, but was extended for one year and terminated on September 1, 1984.

Because this program was only available to greenhouse growers, we determine it was limited to a specific enterprise or industry, or group of enterprises or industries and, as such, is countervailable.

We calculated the benefit under this program according to the grant methodology outlined in the Subsidies Appendix. For each of the years 1982 to 1984, we took the total amount of grants provided to all Dutch greenhouse growers under this program. We allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. Although this program terminated on September 1, 1984, under our methodology, benefits are still accruing from these grants. We used as the discount rate, the average commercial bond rate in the Netherlands for each year in which grants were provided. We took the sum of the 1985 benefit from all of these grants and divided it by total sales of greenhouses during the review period. This resulted in an estimated net subsidy of 0.01 percent *ad valorem*.

#### F. Guarantee Fund for Agriculture

Petitioner alleges that the Government of the Netherlands provides guarantees for loans awarded by banks to certain farmers through a fund designed to promote the development of agriculture.

The official name of this program is the Stichting Borgstellingsfonds voor de Landbouw (Foundation Security Fund for Agriculture). The purpose of the Foundation is to enable creditworthy

farmers to obtain loans when they do not possess sufficient collateral. To receive a loan guarantee under this program, the borrower works in tandem with the bank. The bank provides a loan for which adequate security is available. If this amount is not sufficient to meet the borrower's needs, the bank applies to the Foundation for a guarantee, on behalf of the borrower. If granted, the guarantee applies only to the portion of the loan not originally approved by the bank.

According to the response, and based upon our findings at verification, this program is available to virtually all agriculture. However, during verification, we found that horticulture receives a disproportionate share of loan guarantees under this program. Taking horticulture as a percent of all agriculture, based upon a review of the value of guaranteed loans granted in each year 1982 to 1984, we found that horticulture received approximately 47 percent of the value of all guaranteed loans. Horticulture represents approximately 24 percent of total agricultural production value, as reported in the statistical review of Dutch horticulture, *Tuinbouwcijfers 1986*. In addition, in 1985, horticulture accounted for 52 percent of the total value of loan guarantees awarded. The consistent pattern over the years of horticulture receiving almost 50 percent of the funding even though it accounts for only 24 percent of the value of agricultural production leads us to conclude that the Guarantee Fund is administered in such a way as to confer a benefit on a specific group of industries (i.e., horticulture).

To calculate the benefit under this program, we would normally take the difference between the guarantee fee, if any, paid under the program and the fee paid for commercial loan guarantees, and multiply the difference by the total value of guaranteed loans to horticulture outstanding during the review period. However, during verification we found that there are no commercial loan guarantees available in the Netherlands. Therefore, as best information available, we took the difference between the interest rate in 1985 on the guaranteed loans and on loans secured by equipment and/or accounts receivable, as reported by the Rabobank Nederland (which provides almost all of the loans guaranteed under this program and which is the major source of financing for the agricultural sector in the Netherlands). We multiplied this amount by the total outstanding value of guaranteed loans to horticulture in 1985. We then divided this amount by the

value of total horticulture sales during the review period, as reported by the auction houses. This resulted in an estimated net subsidy of 0.04 percent *ad valorem*.

## II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters in the Netherlands of cut flowers under the following programs:

### A. Glasshouse Enterprises Research Grants

Petitioner alleges that producers of cut flowers in the Netherlands are benefitting from grants provided by the Ministry of Agriculture and Fisheries to conduct research pertaining to energy conservation.

During verification, we found that the Ministry of Agriculture appropriated a total of \$30 million for research and development in energy conservation and energy saving devices. We reviewed publications and a law which show that the results of the research were always made public.

Because the results of the research conducted with these grants are published and made available for public use, we determine this portion of the Glasshouse Enterprises Program not to be countervailable.

### B. Funding of Interest on Loans

Petitioner alleges that the Government of the Netherlands provides funding of interest on loans under a program to encourage the modernization of certain agricultural and horticultural ventures.

This program is provided for under a regulation entitled, "Bealuit Structuurverbetering Landbouwbedrijven" (Decree for Structural Improvement of Agricultural Enterprises). The program is designed for "developmental enterprises" (i.e., those that show good prospects for healthy growth) and is administered by the Foundation for Development and Reorganization in Agriculture (O & S).

During verification, we found that the purpose of this program is to improve farm efficiency with the aim of raising the yearly income of farm workers. Towards this aim, the O & S pays a portion of the interest on loans for approved investment projects. The most recent amendment to the law governing this program states that the intent is to improve quality, diminish production costs, improve working conditions, save energy, and to focus on environmental investments, especially manure storage programs. Eligibility for the program is based on the yearly income of the farm owner's employees; if below a certain

level, then the farm owner becomes eligible to receive the interest subsidy on loans for projects to meet the program's objectives.

According to the government response, the funding of interest on loans is available and provided to all agriculture, except for one exclusion and two limitations. No support is currently given for expansion in poultry; pig farming investments must abide by the rule to utilize 35 percent of the needed fodder from the farm's own production; and expansion in dairy farming is restricted.

During verification, we confirmed that benefits under this program are provided to virtually all agricultural activities and that the only exception involves poultry farmers, who are excluded due to surplus production of eggs; pig and dairy farmers are eligible if they comply with certain restrictions. The mere exclusion of one narrow type of agricultural activity (i.e., poultry farming) does not automatically render this program limited to a specific enterprise or industry, or group of enterprises or industries.

At verification we also found that this program has a definite set of eligibility criteria based upon the farm worker's income level, and a definite formula for determining the amount of interest funding to be provided. The existence of eligibility criteria under which virtually all farmers are eligible indicates that the program is not administered in such a way as to make it limited to a specific enterprise or industry, or group of enterprises or industries.

Furthermore, based upon a review of the most recent five-year period for which data are available, taking horticulture as a percent of all agriculture, horticulture received a share of the approved amounts of funding of interest on loans commensurate with its percentage share of total agriculture production value, minus the total production value of the poultry industry. Therefore, we find this program not to be countervailable.

## III. Programs Determined Not To Be Used

We determine that the producers or exporters in the Netherlands of cut flowers did not use the following programs:

### A. Investment Incentive (WIR)—Regional Program

Petitioner alleges that, under the Investment Incentive Program (Wet Investerings Rekening-WIR), bonus premiums for regional investments are given to producers or exporters of cut

flowers in the Netherlands. Financial assistance conferred under the WIR regional program was found to be countervailable in the *Final Countervailing Duty Determination: Dextrines and Soluble or Chemically Treated Starches Derived from Corn Starch from the European Community* (15 FR 18414, March 21, 1980).

At verification, we found that the Regional Planning Premium (ROT) and the Special Regional Premium (BRT) of the WIR program provided tax credits, over and above the basic WIR credit, as incentives for investments in the northern and eastern sections of the country. We also found that agriculture was excluded from the ROT and BRT in 1982, and both programs were terminated in 1983.

According to the response submitted by the Government of the Netherlands, and based upon our findings during verification, the WIR programs were not used by Dutch flower growers.

#### B. Loans at Preferential Interest Rates

Petitioner alleges that the National Investment Bank may provide loans on terms inconsistent with commercial considerations to producers or exporters of cut flowers in the Netherlands. Petitioner also contends that at least two regional development companies, the Northern Development Company and the Limburg Institute for Development and Finance, offer loans and share capital for investments in the northern development area and in the southern Limburg development area, respectively.

During verification we found that the National Investment Bank (NIB) issues long-term loans to financially sound companies which lack sufficient capital. Commercial banks, private investors, and the government jointly participate in the NIB, and the government may guarantee the loan principal and interest in certain cases, e.g., establishment of new industrial enterprises in regions designated for economic stimulation. The possible subsidization of interest costs applies solely to new industries to be established in regions designated for economic stimulation.

During verification we found that both the NIB and the provincial development companies are geared toward industrial concerns. We saw no evidence that flower growers or auctions received loans under these programs.

#### C. Energy Saving Aids

Petitioner alleges that the Ministry of Economic Affairs provides funds for projects which promote energy conservation (e.g., wind or solar installations). Petitioner also states that

the Ministry offers loans for research and development, under which repayment is waived for unprofitable research or unsuccessful projects.

At verification, government officials contended that the Energy Savings Aids program is the national energy conservation policy of the Government of the Netherlands, developed by the Ministry of Economic Affairs, and under which other government ministries develop and implement specific objectives and programs for the particular sectors or groups falling under their jurisdiction. They stated that the Glasshouse Enterprises and Reduction of Glass Surface Area programs fall under the general category of Energy Savings Aids applicable to greenhouse growers. As noted above, we saw no evidence of a coordinated national program under which these programs were funded. In addition, we found no evidence that Dutch flower growers received any energy savings assistance other than that provided under the Glasshouse Enterprises and the Aids for the Reduction of Glass Surface programs.

#### D. Landbankregulation

Petitioner alleges that the Government of the Netherlands provides financing for acquiring land in the agricultural sector under the Landbankregulation program. During verification we found that the Landbankregulation program applies only to arable crop and dairy farming.

#### Petitioner's Comments

*Comment 1:* Petitioner contends that the Department significantly understated the value of benefits conferred by programs which it preliminarily determined to be countervailable because the Department assumed, in comparing the total benefit of a program with the value of all greenhouse production, that the subsidy equally affects all areas of greenhouse production. Petitioner argues that, because yields for flowers are lower than that for other greenhouse plants, more greenhouse acreage is needed to produce flowers and, therefore, equal allocation over all greenhouse production would understate the effect of the subsidy.

*DOC Position:* In the programs we are examining, the Government of the Netherlands does not differentiate benefit amounts provided to greenhouse growers according to the types of products produced in greenhouses. Therefore, in cases where we use aggregate data in evaluating benefits, as in this investigation, it is usually not possible to isolate the benefits accruing

solely to the products under investigation since the programs usually are not provided specifically to the products we are investigating. When the purpose of the programs is to assist greenhouse growers, and when the amounts of the benefits are not segregable between greenhouse growers who produce flowers and greenhouse growers who produce other products, we consider that the total benefit is appropriately assigned to the total value of all greenhouse sales, and that this assignment reflects the value of the subsidy attributable to flowers grown in greenhouses.

*Comment 2:* Petitioner contends that the Department should continue to use best information available regarding natural gas provided at preferential rates because the Government of the Netherlands has provided no further information since its supplemental questionnaire response and that any other information submitted so late in the investigation would be untimely and accordingly should be rejected.

*DOC Position:* We disagree. For purposes of our final determination on the natural gas program, information obtained by the Department during verification and accurately reported in the amended responses makes the use of best information available unnecessary.

*Comment 3:* Petitioner contends that the Aids for the Creation of Cooperative Organizations program is limited to a specific group of enterprises of industries because, according to figures provided in the response, a comparison of sums awarded to auction houses with the total amounts awarded under the program shows that most probably the auction houses got most, if not all, of the monies bestowed in the Netherlands under the part of the program which is specifically intended for the flowers and plants sector. Furthermore, they contend that, in the Netherlands, this program is only available to a few sectors of agriculture and cite EC Regulation 355/77.

*DOC Position:* While we have found the Aids for the Creation of Cooperative Organizations program to confer a subsidy, we did so on the basis that the Government of the Netherlands, through the selection process, limited program proposals to specific agricultural activities, and not because auction houses may have received a significant amount of the funding under the approved program for flowers and plants. See Section I.B. of the notice.

*Comment 4:* Petitioner contends that, with respect to Aids for the Creation of Cooperative Organizations program, because the largest part of the

production of the Dutch greenhouse growers is exported, and because these products are sold through auction houses for export, export promotion must be viewed as a *de facto* consequence of the subsidizing of the auction houses. In support of their argument, petitioner cites "The Commerce Department speaks on Import Administration and Export Administration 1984" at 315-316. ("Thus, Commerce frequently talks of an export subsidy as one which operates and is intended to stimulate export rather than domestic sales or is contingent upon export performance.")

**DOC Position:** We disagree. The fact that export sales may be a consequence of this program does not mean that the Aids for the Creation of Cooperative Organizations program constitutes an export subsidy. See *Final Negative Countervailing Duty Determination: Certain Softwood Products from Canada* (48 FR 24159, 24167, May 31, 1983).

**Comment 5:** Petitioner contends that under the Guarantee Fund for Agriculture, the horticultural and floricultural sectors received a disproportionate share of benefits and that the program is, therefore, countervailable. Petitioner cites the *Preliminary Affirmative Countervailing Duty Determination: Certain Textile Mill Products and Apparel from Thailand* (49 FR 49661, December 21, 1984) in support of its argument. Furthermore, petitioner contends that the Department's interpretation on general availability is contrary to law as formed in *Cabot v. United States* (620 F. Supp. 722 (1985)).

**DOC Position:** Based upon our analysis of all information submitted, we have determined that the Guarantee Fund for Agriculture is administered in such a way as to provide a disproportionate share of benefits to horticulture. See Section I.F. of the notice.

**Comment 6:** Petitioner contends that the Funding of Interest on Loans program is countervailable under existing Department interpretation as it provides a subsidy which *de facto* benefits disproportionately the horticultural sector. In addition, petitioner argues that the Government of the Netherlands has admitted that certain sectors of agriculture, such as the poultry sector, pig farming and dairy farming have been excluded from the program or that benefits for those sectors have been restricted.

**DOC Position:** We disagree. During verification, we found that benefits under this program are provided to virtually all agricultural activities. The only exception involves poultry farmers

who are excluded due to surplus production of eggs; pig and dairy farmers are eligible if they comply with certain restrictions. We maintain that the exclusion of only one narrow type of agricultural activity (*i.e.*, poultry farming) does not render this program limited. Furthermore, we found no evidence at verification that would lead us to conclude that horticultural activities received a disproportionate amount of benefits under this program.

**Comment 7:** Petitioner contends that the February 13, 1985 EC decision concerning Gasunie's and the Landbouwschap's natural gas pricing provisions was based on the fact that the Dutch natural gas tariff for flower growers was preferential, and not just the ceiling price on natural gas, as claimed by respondents. Furthermore, petitioner argues that the Department has received no information from the Government of the Netherlands to show that the preference has been eliminated. Therefore, the Department should continue to use best information available for the final determination.

**DOC Position:** The EC decision of February 13, 1985 states that "[T]he advantage of the new system to a horticultural holding is thus as follows:

- 4.1 cents/cubic meter for the fourth quarter of 1984,
- 5.5 cents/cubic meter for the first quarter of 1985."

This "advantage" represents the difference between the gas price under the 1984 contract, effectively the ceiling price in the fourth quarter of 1984 and the first quarter of 1985, and the gas price that would have been applicable had the 1983 contract been in effect during those two quarters. Moreover, the 1983 contract between Gasunie and the Landbouwschap, signed after consultations between the EC and the Government of the Netherlands, did not contain a ceiling price provision. Therefore, the EC's February 13, 1985 decision objected only to the new ceiling price provision in the 1984 contract.

With respect to petitioner's argument that the Department has received no new information to show that the preference has been eliminated, the Government of the Netherlands submitted information during verification which we verified and which clarifies the terms of the contract between Gasunie and the Landbouwschap. We have based our analysis on this verified information.

**Comment 8:** Petitioner contends that respondents' argument that because the Government of the Netherlands did not direct the sale of natural gas to the Dutch flower growers at low prices,

there can be no subsidy, is contrary to both judicial decision and legislative history which establish that government direction is not a requirement for a finding of subsidization. In addition, petitioner contends that, in fact, the Government of the Netherlands owns 50 percent of Gasunie and retains the right to approve prices and terms of delivery for natural gas and that these facts should lead the Department to conclude that the Dutch Government does indeed play a role in setting natural gas prices.

**DOC Position:** We agree that the Government of the Netherlands plays a significant role in setting gas prices. See Section I.A. of the notice.

**Comment 9:** Petitioner contends that respondents' argument that any benefit from low natural gas prices was not conferred on a "specific enterprise or industry" is contrary to information submitted by respondents. They argue that this information indicates that benefits accrue only to one part of the entire agriculture sector and that this sector constitutes a specific enterprise or industry, or group of enterprises or industries.

**DOC Position:** We agree. See Section I.A. of the notice.

**Comment 10:** Petitioner contends that respondents' argument, that natural gas prices charged to Dutch flower growers were not preferential because Gasunie was forced to bring down its gas price to convince flower growers not to shift to oil heat, ignores the evidence of record which shows that the tariff charged horticultural users of natural gas was not justified on economic grounds.

**DOC Response:** The evidence on the record shows that the provision in the contract which stipulates the zone "d" plus 0.5 guilder cents rate for greenhouse growers is the result of negotiations based on each party's interests and is justified on economic grounds. Therefore, the contracted zone "d" plus 0.5 guilder cents rate cannot be considered a preferential price to greenhouse growers because it is a negotiated price that is directly linked to the price paid by other gas consumers which, in turn, is linked to the world market price of heavy or light fuel oil. See Section I.A. of the notice.

**Comment 11:** Petitioner contends that respondents' argument that benefits similar to those provided under the Reduction of Glass and the Glasshouse Enterprises programs were available in all areas or industry as part of a national policy of energy conservation and should, therefore, be found generally available would require a sweeping expansion of the general availability test, so that almost no

benefit would be found countervailable. They further contend that this interpretation would contradict the underlying purpose of the law, which is to offset the unfair advantage subsidies provide a foreign manufacturer over its U.S. competitors.

**DOC Position:** We agree that these programs are countervailable. The bases for our determinations are fully addressed in Sections I.C. and I.D. of the notice. See also DOC Position to Respondents' Comment 1.

**Comment 12:** Petitioner argues that, with respect to the Glass Reduction and Glasshouse Enterprises programs, although these programs allegedly have been terminated, grants received under these programs continue to benefit the recipients during the review period so that their value must be included in calculating the *ad valorem* duty rate.

**DOC Position:** We agree. See DOC Position to Respondents' Comment 24.

**Comment 13:** Petitioner argues that, although the Dutch law prohibiting the use of methylbromide may have forced the Dutch growers to use other methods of soil sterilization, it did not require them to use steam drainage systems. By making available grants for this purpose, the Government of the Netherlands awarded a benefit to greenhouse growers who installed such systems, relieving them of part of their operating costs.

**DOC Position:** We agree. See DOC Position to Respondents' Comment 3.

**Comment 14:** Petitioner contends that the questionnaire response does not indicate that there are no flower growers in WIR eligible areas and is surprised that there would not be a single flower grower in the northern and eastern sections of the Netherlands which are the regions targeted to receive benefits under the program.

**DOC Position:** During verification, we found that there are, in fact, some flower growers located in areas eligible for tax benefits under the WIR regional programs (ROT and BRT). However, we also found that these programs were terminated in 1983 and were not used by flower growers.

**Comment 15:** Petitioner contends that verification of the Aids for the Creation of Cooperative Organizations program reveals that the EC enjoys much discretion in deciding whether or not to award grants and how much to award. They further contend that different regions are subject to different rates and that these are maximum rates only, and allow for considerable discretion on the part of the grant authority. Thus, they maintain that the Aids for the Creation of Cooperative Organizations program could also be considered a regional

subsidy. In support of this argument, petitioner cites *Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 FR 25097, June 17, 1985) (*Live Swine*) in which they contend that the Department found all benefits under an Ontario tax program to constitute a regional subsidy even though every farmer within the province was eligible to receive benefits at a certain level of income, while farmers in specified regions were eligible at a lower income level. Lastly, petitioner contends that the Department was unable to verify the nature of the criteria employed or the exact effect of the selection process. Therefore, they contend that the Department should determine that these grants are countervailable.

**DOC Position:** Although we found during verification at the EC that certain regions within the Community are eligible for higher grant contributions than others, there are no differing eligibility levels for regions in the Netherlands. Therefore, regionality is not the basis of our determination that this program is countervailable. We found at verification that the Government of the Netherlands limits its selection of programs and projects to be sent to the EC for consideration. Furthermore, we were unable to verify any standard criteria applied in the approval process of member states' sectoral programs and the individual investment project applications under the sectoral programs. For these reasons, we have found that the grants given under this program are limited to a specific group of enterprises or industries within the agricultural sector and, as such, are countervailable.

Furthermore, petitioner's argument that the existence of regional preferences should lead us to conclude that the entire program constitutes a regional subsidy is incorrect. With regard to the Ontario Tax Reduction Program discussed in *Live Swine*, because information was unavailable on specific benefits provided to individual commodity groups, or within specific regions of Ontario, we used as best information available, the total payout under the program in 1984 to swine production. Furthermore, in the *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from Canada* (52 FR 2134, January 20, 1987), the Department verified that all farmers throughout Ontario were eligible for this tax program if they had an annual income of \$8,000. Farmers located in specific regions were eligible if they had an annual income of \$5,000. We found that the receipt of benefits under the \$8,000 criterion was not limited to a specific

enterprise or industry, or group of enterprises or industries, or to companies located in specific regions.

#### Respondents' Comments

**Comment 1:** The Government of the Netherlands contends that energy conservation programs, such as the Decree for Energy Savings Measures in Horticulture under Glass and the Decree for Business-Reduction of Horticultural Glasshouses, as well as other energy conservation programs available in the Netherlands, were designed to conserve energy, and not to benefit Dutch manufacturers, homeowners or growers. They contend that the "targets" of the implementation of these programs were not specific industries or any group favored by the government. Rather, the policy and its implementation were aimed at all significant energy consumers throughout the Dutch economy.

**DOC Position:** At verification, the Government of the Netherlands was unable to provide documentation linking these programs directly to a national energy program. Officials stated that they do not maintain central records on all energy conservation programs, nor is there one central budget for all energy programs within the country. Each government ministry approves the budget for energy programs implemented under its jurisdiction. Because the government was unable to document the inclusion of the Glasshouse Enterprises and the Reduction of Glass Surface programs as part of an overall national energy program, or even an agriculture-wide energy program, and because these programs are available only to greenhouse growers, we find that they are limited to a specific enterprise or industry, or group of enterprises or industries and, therefore, are countervailable.

**Comment 2:** The Government of the Netherlands contends that the Subsidies Code recognizes that subsidies other than export subsidies are widely used as important instruments for the promotion of social and economic policy objectives, and that it is not the intent to restrict the rights of signatories to use such subsidies to achieve important policy objectives. Therefore, they contend that, in determining the effect of the subsidy, proper consideration should be given to the nature of the subsidy and, as such, the programs designed chiefly to promote energy savings should not be considered countervailable.

**DOC Position:** The language of Article 11 of the Subsidies Code does not



prejudice the right of any signatory to the Code to countervail against non-export subsidies. The fact that certain subsidies are not specifically prohibited by the Code is not relevant as to whether such subsidies confer a countervailable benefit in a specific case. In this investigation, we have carefully considered all aspects of each program under investigation and have made decisions consistent with our methodology and prior determinations.

**Comment 3:** The Government of the Netherlands contends that the objective of the Steam Drainage Program was to protect the health, environment and social needs of its citizens rather than to bestow any benefit on greenhouse growers. They contend that, as a consequence of this program, greenhouse growers were economically worse off than before this measure was taken.

**DOC Position:** We disagree. The purpose of the Steam Drainage program was to provide financial assistance to greenhouse growers to offset the cost of complying with the ban in January 1981 on methylbromide as a means of soil disinfection. The ban itself, and not the program, fulfilled the objective of protecting the health, environment and social needs of the population. The argument that greenhouse growers were economically worse off than before the ban is irrelevant in that growers would have had to comply with the ban absent the Steam Drainage program. Therefore, this program is found to provide a direct benefit specifically to greenhouse growers.

**Comment 4:** With regard to programs which have officially been terminated, the Government of the Netherlands contends that any programs terminated by a signatory cannot be used as a basis for countervailing measures to be applied after the removal of the program.

**DOC Position:** We disagree. Although these programs have been terminated, we found at verification that grants were still being provided under these programs after the review period. In addition, these grants were awarded to individual recipients on a one-time only basis and were not recurring in each year during the existence of the programs. Therefore, under our grant methodology, we allocate these grants over the average useful life of renewable physical assets in the industry. Under this methodology, grants continue to yield benefits even after the termination of the programs.

**Comment 5:** The Government of the Netherlands, in supporting a statement submitted by the EC, contends that, according to the relevant provisions of

the Subsidies Code, any request for countervailing duties must be made "by or on behalf of the industry affected" and that it must be supported by producers accounting for a major proportion of the like product. The Government of the Netherlands and the EC state that they find no evidence for these conditions having been fulfilled in this investigation and that the Floral Trade Council did not even allege that it represented a majority of the U.S. flower producers of the "like" product.

**DOC Position:** As the Department has previously stated, see, e.g., *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members opposing an investigation provide a clear indication that there are grounds to doubt a petitioner's standing, the Department will review whether the opposing parties do, in fact, represent a major portion of the domestic industry. In this case, we have not received any opposition from the domestic industry.

**Comment 6:** The Government of the Netherlands contends that the Department erred in its decision in the preliminary determination to use, as best information available, the EC decision of February 13, 1985, regarding the investigation by the EC into alleged preferential natural gas prices for Dutch horticulturists. The Government of the Netherlands contends that the Department did not take into account that the Netherlands government appealed this decision and that the case is still pending. Furthermore, they contend that the Department failed to note that the EC in its decision accepts the principle of differentiation of gas tariffs. The Government of the Netherlands argues that the dispute centered around the maximum price clause in the 1984 agreement and that this price ceiling has now been removed and was fully discussed at verification.

**DOC Position:** We agree that there is reason to differentiate gas tariffs based on demand, ability and likelihood of customers to switch to alternative energy sources. Our decision on this program is based on the special ceiling price given only to greenhouse growers. As stated in Section I.A. of the notice, we have no evidence that the Landbouwschap has agreed to the

withdrawal of the ceiling price in the contract by Gasunie.

**Comment 7:** The Government of the Netherlands contends that the Department erred in its statement in the preliminary determination that the Government of the Netherlands determined the price of natural gas set by Gasunie. They contend that the government has the right to approve tariffs set by the Gasunie, but only after the agreement with the Landbouwschap is reached.

**DOC Position:** The Government of the Netherlands owns 50 percent of Gasunie and the Minister of Economic Affairs has final approval of the tariff schedules. These two factors indicate that the Government of the Netherlands has a significant role in natural gas sales and pricing; such a role, in effect, indicates that the provision of a special ceiling price on natural gas purchased by greenhouse growers is provided or required by government action.

**Comment 8:** The Government of the Netherlands contends that they have a right to prescribe minimum prices for natural gas on the basis of the market value of the gas and that this power has been used occasionally in relation to gas prices for households but never in relation to gas for industrial users.

**DOC Position:** The issue in this case is the maximum ceiling price set by or through government action in the contract between Gasunie and the Landbouwschap, and not minimum prices for natural gas.

**Comment 9:** The Government of the Netherlands contends that, contrary to the findings of the verification team, the price charged by Gasunie for natural gas to the greenhouse growers has never been below the contract price and, in three quarters of 1985, the ceiling price was the contract price.

**DOC Position:** While the ceiling price is in the contract, we have found that the provision of gas at the ceiling price constitutes the provision of a good at a preferential rate. See Section I.A. of the notice.

**Comment 10:** Respondents contend that if the Department were to find that the gas price ceiling did bestow a countervailable benefit on greenhouse growers, the Department now has verified that the program was terminated over a year prior to the preliminary determination and, therefore, no estimated countervailing duties should be calculated.

**DOC Position:** We disagree. We do not consider the unilateral withdrawal of the ceiling price by Gasunie to constitute a program-wide change because no new contract has been

signed by the parties agreeing to the withdrawal, and because the current contract still includes the maximum ceiling price for greenhouse growers. See Section I.A. of the notice.

**Comment 11:** Respondents contend that the price of gas to horticulturists was determined through arm's length negotiations between Gasunie and the Landbouwschap and is not provided or required by government action. They further contend that the existence of a farmers union to negotiate gas prices on behalf of all growers is a natural extension of the general cooperation among growers.

**DOC Position:** These arguments are addressed in Section I.A. of the notice.

**Comment 12:** Respondents argue that the Landbouwschap is a union which represents and defends the interest of all agricultural producers, not simply those of a specific sector of agriculture. Therefore, they contend that the gas prices negotiated between the Landbouwschap and Gasunie were not industry specific.

**DOC Position:** We agree that the Landbouwschap has been established to represent the interests of all agriculture. However, in negotiations for a contract with Gasunie, the Landbouwschap lobbied for lower gas prices only for horticulturalists (*i.e.*, greenhouses). Therefore, any benefit obtained by the Landbouwschap benefits only a specific industry.

**Comment 13:** Respondents argue that the situation which compels Gasunie to utilize a different formula for determining gas prices charged to Dutch greenhouse growers than that applied to individual producers is based entirely on normal commercial, rather than government factors. They contend that, since Dutch greenhouse growers are much more ready to shift from gas to oil or coal, prices charged to those producers are more sensitive than those charged to individual industrial producers.

**DOC Position:** We agree that it may be in the commercial interest of each party to negotiate a contract under which greenhouse growers pay a price that is directly tied to published tariff prices since these tariff prices are based on level of consumption and are set according to the world market prices of heavy and light fuel oil. However, when the government agrees that this same group will not have to pay the published tariff rate if this rate increases above a ceiling price, and when the government does not provide a ceiling price to any other users, the ceiling price constitutes price discrimination by the government.

**Comment 14:** Respondents argue that the programs for Glass Reduction and

Glasshouse Enterprises were part of a nationwide program to promote energy conservation and protect the health, environment, and social needs of its citizens and that the signatories to the Subsidies Code recognize a nation's right to institute such programs. Furthermore, they contend that a general energy-saving policy must be implemented differently in each sector, given that similar incentives will not work for both homeowners and for industry.

**DOC Position:** We disagree. See DOC Position to Respondents' Comments 1 and 2.

**Comment 15:** Respondents argue that the Department has verified that both the Glass Reduction and Glasshouse Enterprises programs have been terminated and that there is, therefore, no basis for countervailing these programs for future exports.

**DOC Position:** We disagree. While we have verified that these programs were terminated prior to the review period, grants are still being disbursed under these programs. In addition, these grants were awarded to individual recipients on a one-time only basis and were not recurring in each year during the existence of the programs. Therefore, under our grant methodology, we allocate these grants over the average useful life of renewable physical assets in the industry. Under this methodology, grants continue to yield benefits even after the termination of the programs.

According to our methodology, for each year in which grants were provided, if the total value of all grants in any one year exceeds 0.5 percent of relevant total sales in that year, the grants shall be allocated over the average useful life of renewable physical assets in the industry, as determined under the U.S. Internal Revenue Service's Asset Depreciation Range System. Therefore, where grants under all programs exceeded the 0.5 percent threshold in each year, these grants were allocated over ten years, in accordance with our methodology. If, however, grants provided under all programs were found to be less than 0.5 percent for each year, grants disbursed in that year under both the Glasshouse Enterprises and Reduction of Glass Surface programs properly would have been expensed in the year of receipt.

**Comment 16:** Respondents argue that the preliminary determination failed to take into consideration that the Glass Reduction and Glasshouse Enterprises programs are available to all greenhouse operators, whether fruit, vegetable, flower, tree or plant, and that the Department's calculation does not make

adequate allowance for the wide coverage of this program.

**DOC Position:** We disagree. These programs were found to be limited to a specific subset of agriculture, specifically greenhouse growers, and as such we consider benefits to be limited to a specific group of enterprises or industries, and, therefore, countervailable. See also DOC Position to Respondents' Comment 20.

**Comment 17:** Respondents contend that flower growers received no benefit through the Steam Drainage program because the governmental allowance for steam drainage investments only partially offsets an economic disadvantage that the government imposed specifically on greenhouse growers. They cite *Certain Steel Products from Belgium* (47 FR 39304, September 7, 1982) in which they contend that the Department did not countervail aid to workers who were retired early because the government had merely relieved the companies of an extraordinary burden it had imposed under a restructuring program.

**DOC Position:** We disagree. (See DOC Position to Respondents' Comment 3.) In addition, with regard to *Certain Steel*, we found the Labor Assistance (Pre-Pension) Program not to be countervailable because benefits were not being provided to companies *per se*. Rather, the companies merely acted as a conduit for the provision of benefits to the displaced workers as a result of the restructuring. Therefore, the displaced workers, and not the companies, were the recipients of benefits under the Labor Assistance Program. In this investigation, benefits provided to growers directly reduce their costs to implement steam drainage systems.

**Comment 18:** Respondents contend that information verified by the Department confirmed the general availability of the Guarantee Fund and Interest Funding and that, contrary to petitioner's arguments, no *de facto* limitation was found.

**DOC Position:** See Sections I.F. and II.B. of the notice in which we have addressed the issues of availability and proportionality of benefits provided under the Guarantee Fund for Agriculture and the Funding of Interest on Loans programs.

**Comment 19:** Respondents contend that information verified by the Department confirmed that flower growers did not benefit from the WIR regional programs, Loans at Preferential Interest Rates, Industrial Energy Savings Aids, or Landbank regulation.

**DOC Position:** We agree.



**Comment 20:** Respondents contend that, if the Department can characterize the product of one flower, the rose, as an industry (*Agrexco, Agricultural Export Co., Ltd. v. United States*, 9 CIT \_\_\_\_\_, 604 F. Supp. 1238 (1985)), then the separate industries making up the horticulture "industry" contain over 60 categories such as cut flowers, shrubs, trees, apple orchards, etc. They contend that the industries classified by the Department as "greenhouse growers" and "horticulturists" are, therefore, too broad a class and should not be properly considered an industry or a specific group of industries. Therefore, they contend, any benefit to "greenhouse growers" or "horticulturists" should not give rise to countervailing duties.

**DOC Position:** We disagree. Although the horticulture and greenhouse industries contain many separable categories of products, the Department considers these industries to be a specific subset of all agriculture and not so broad as to consider them more than a specific enterprise or industry, or group of enterprises or industries under the countervailing duty law. The Department consistently has found benefits provided to specific subsets of agriculture to be limited. See e.g., *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from Canada* (52 FR 2134, January 20, 1987), *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 FR 25097, June 17, 1985), and *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Lamb Meat from New Zealand* (50 FR 37708, September 17, 1985).

**Comment 21:** Respondents contend that the Department recognizes that price differences resulting from enhanced purchasing power, in this case the Landbouwschap, are not preferential under the law, even if the government has been the cause of the enhanced power. They cite *Industrial Nitrocellulose from France* (46 FR 11971, March 22, 1983) in support of their argument. They further contend that, in the present case, the enhanced purchasing power is entirely non-governmental and in itself cannot give rise to a countervailable preference.

**DOC Position:** We agree that price differences resulting from differences in purchasing power do not necessarily constitute "preferential rates." The provisions in the 1984 contract between the Landbouwschap and Gasunie, establishing the zone "d" plus 0.5 guilder cents gas rate for greenhouse growers,

resulted from an arm's length negotiation based on the greenhouse growers' purchasing power and Gasunie's incentive to keep a high-volume customer. However, the provision of the ceiling price in the contract constitutes the provision of a good at a preferential rate specifically to greenhouse growers as opposed to other users. See Section I.A. of the notice.

**Comment 22:** Respondents contend that the Department correctly ruled that "large scale energy consumers" is not a countervailable category in *Certain Steel Products from the Netherlands* (47 FR 39372, September 7, 1982) and that the energy programs examined by the Department in the present investigation, Glass Reduction and Glasshouse Enterprises, fall squarely into this noncountervailable category.

**DOC Position:** We disagree. The program referred to in *Certain Steel Products from the Netherlands* was a program which provided assistance to all industries in the Netherlands to introduce new energy-saving technology for which funds are disbursed in a nondiscretionary manner. In that case, the Department found that a company receiving assistance under this program had received funds to purchase specialized computer control equipment which could be utilized by other industries such as the chemical industry and other large scale energy consumers. Therefore, respondents incorrectly interpreted that the Department ruled in that case that large scale energy consumers is not a countervailable category when, in fact, the Department found that the program itself was not limited to a specific enterprise or industry, or group of enterprises or industries.

**Comment 23:** Respondents contend that information verified by the Department confirmed the general availability of Aids for the Creation of Cooperative Organizations program and that petitioner has not and cannot provide evidence that the program is intended to stimulate exports or is contingent upon exports.

**DOC Position:** We disagree that our verification confirmed the general availability of this program. On the contrary, we found it to be administered in such a way as to be limited to a specific group of enterprises or industries within the agricultural sector (see Section I.B. of the notice). We agree, however, that this program does not constitute an export subsidy (see DOC Position to Petitioner's Comment 4).

**Comment 24:** Respondents contend that the Glass Reduction and

Glasshouse Enterprises programs have been established for a period of years through on-going legislation and were clearly not exceptional in nature. Therefore, the Department should not impute a past benefit under these programs onto future sales.

**DOC Position:** We disagree. Although these programs were established for a period of years, grants to individual recipients were provided on a one-time only basis and were not recurring in each year during the existence of the programs. Therefore, for grants provided on a one-time only basis, the Department's methodology, which allows for the allocation of benefits over the average useful life of renewable physical assets in the industry, is the appropriate methodology to calculate the benefit from these two programs. See also DOC Position to Respondents' Comment 4.

**Comment 25:** Respondents contend that the figures to use for the export sales value is the FOB value, which represents the auction price plus the exporter's mark-up. They contend that it is the FOB value which the U.S. Customs Service uses for the entry value and this value is, therefore, a more appropriate representation.

**DOC Position:** At verification, respondents made this same argument. The verification team informed respondents that, if the information on the exporter's mark-up could be presented and verified, we would consider the information for use in our final determination. Respondents did not provide, nor did we verify, any information on the exporter's mark-up. Therefore, we cannot consider the FOB value for the export sales portion of the denominator.

**Comment 26:** Respondents contend that, if the Department were to find the natural gas program to be a subsidy, the annual, not the first quarter, gas price should be used to calculate the alleged gas price preference in 1985.

**DOC Position:** We have calculated an average annual price based on the quarterly price that greenhouse growers would have had to pay at the zone "d" plus 0.5 guilder cents rate, and compared this price to the average annual price actually paid by greenhouse growers during the review period. This difference constitutes the preference to greenhouse growers through the provision of the ceiling price.

#### Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination.

During verification, we followed standard verification procedures, including meetings with government officials, as well as on-site inspection of one flower auction house and of two randomly selected companies, inspection of documents and ledgers, and tracing information in the responses to source documents, accounting ledgers, and financial statements.

#### **Suspension of Liquidation**

In accordance with section 705(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from the Netherlands which are entered, or withdrawn from warehouse for consumption on or after October 27, 1986. As of the date of publication of this notice in the Federal Register, the Customs Service shall require a cash deposit or bond of 3.50 percent ad valorem for each entry of this merchandise from the Netherlands.

#### **ITC Notification**

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, the suspension will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation, will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to assess countervailing duties on all entries of cut flowers from the Netherlands entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Lee W. Mercer,

Acting Assistant Secretary for Trade Administration.

January 27, 1987.

[FR Doc. 87-2130 Filed 2-2-87; 8:45 am]

BILLING CODE 3510-06-M

(C-122-803)

**Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From Canada**

**AGENCY:** Import Administration,  
International Trade Administration,  
Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Canada of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. We are not including Unsworth Greenhouses Ltd. (Unsworth) in our countervailing duty determination because Unsworth received no benefits during the review period. The estimated net subsidy is 1.47 percent *ad valorem* for all other producers or exporters in Canada of cut flowers.

We have notified the U.S. International Trade Commission (the ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Canada, except for entries of cut flowers produced by Unsworth, that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on entries of this merchandise in an amount equal to the estimated net subsidy.

**EFFECTIVE DATE:** January 20, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin, Barbara Tillman, or Ross Coljanie, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2830, (202) 377-2438, or (202) 377-3534.

**SUPPLEMENTARY INFORMATION:****Final Determination**

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in

Canada of cut flowers. For purposes of this investigation, the Ontario Greenhouse Energy Efficiency program is found to confer a subsidy.

We determine the estimated net subsidy to be 1.47 percent *ad valorem* for all producers or exporters of cut flowers in Canada, except Unsworth Greenhouses Ltd. (Unsworth). Unsworth is not included in this countervailing duty determination because it received no benefits during the review period.

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Canada of cut flowers receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21863, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of cut flowers from Canada (51 FR 25781, July 16, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Canada in Washington, DC, concerning petitioner's allegations. On July 10, 1986, we received a letter from the Canadian Embassy in Washington, DC requesting an extension of 30 days for the filing of the questionnaire responses. An extension until August 11, 1986, was granted by the Department. We received the government response on August 11, 1986, and the company responses on

September 4, 1986. Unsworth and Renkema Florist Ltd. (Renkema) are producers of the subject merchandise. These two companies accounted for more than 60 percent of exports of the subject merchandise to the United States during the review period. Additional information was supplied on September 28 and 29 and October 17, in response to a Department of Commerce letter dated September 12, 1986.

On the basis of the information contained in these responses, we made our preliminary determination on October 20, 1986 (51 FR 37925, October 27, 1986). Based upon the request of the petitioner, on November 26, 1986, we extended the deadline dates for the final determinations in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile to correspond to the date of the final determinations in the antidumping duty investigations of the same merchandise, pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984 (PL 98-573) (51 FR 43649, December 3, 1986).

From December 8 to December 12, 1986, we verified the information submitted by the Government of Canada, the Government of the Province of Ontario, Unsworth and Renkema.

At the request of the petitioner, we held a public hearing on December 17, 1986, to afford interested parties an opportunity to present views orally in accordance with our regulations (19 CFR 335.35). We received a case brief from petitioner on December 10, 1986, and comments on the verification report on January 8, 1987. The Canadian Embassy on December 17, 1986, submitted its comments regarding the Department's preliminary determination. The responding companies filed supplemental public responses on January 8, 1987. On January 7, 1987, the Canadian Embassy, on behalf of Renkema, submitted a supplemental response containing the verified sales and export statistics.

#### Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, currently provided for in item 192.21 of the TSUS.

#### Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the

"Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 28, 1984).

For purposes of this final determination, the period for which we are measuring subsidies (the review period) is calendar year 1985.

Based upon our analysis of the petition and the responses to our questionnaire, our verification and written comments submitted by the interested parties, we determine the following:

#### I. Program Determined to Confer a Subsidy

We determine that subsidies are being provided to producers or exporters in Canada of cut flowers under the following program:

##### *Ontario Greenhouse Energy Efficiency Program (GEEP)*

Pursuant to section 5 of the Ministry of Agriculture and Food Act, the Government of Ontario created the Ontario GEEP. The purpose of this program is to make grants to greenhouse growers by contributing to the capital cost of retrofitting existing greenhouses in Ontario with certain energy-saving equipment and materials.

An individual, partnership or corporation may be eligible for a grant from this program if the applicant is in the business of growing food or ornamentals in greenhouses on land owned by the applicant in Ontario. The grower must live in the province, and have a minimum gross income of \$12,000 (from the sale of food or ornamentals produced in the greenhouses) in the 12 months immediately preceding the date of application, and may not receive a grant for the project under any other provincial or federal government program. Under the terms of the program, growers may receive grants equal to one-third of the capital costs of one or more of the projects.

We verified that Unsworth and Renkema received grants under this program. All flowers grown by Renkema and Unsworth are grown in greenhouses. Since Ontario GEEP grants are made only to producers growing food or ornamentals in greenhouses, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, within the meaning of section 771(5)(B) of the Act.

To calculate the benefit from this program, we used our grant methodology. First, we compared the total amount of grants received to each

company's greenhouse sales in the year in which the grant was received. If the total of all countervailable grants was less than 0.5 percent of the applicable sales, we expensed the grants in the year of receipt. If the total of all countervailing duty grants was greater than 0.5 percent of the applicable sales, we allocated the grants received over 10 years (the average useful life of agricultural assets). The only grant received by Unsworth under the program was a small grant in 1984. This grant was less than 0.5 percent of Unsworth's greenhouse sales; therefore, the grant was expensed in the year of receipt and there are no benefits accruing to Unsworth under the program during the review period.

Renkema received two grants under this program, one in 1983 and one in 1985, which were greater than 0.5 percent of sales; therefore, we allocated these grants over ten years. We used as the discount rate the long-term corporate bond rate in Canada, as provided by the Bank of Canada. We divided the value of Renkema's benefits by the company's sales of cut flowers during the review period to calculate an estimated net subsidy of 1.47 percent *ad valorem*.

#### II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters of cut flowers in Canada under the following programs:

##### A. Farm Improvement Loans

Canada's Farm Improvement Loan Act of 1945 provides intermediate-term and short-term credit to farmers for a wide range of farm improvement projects by authorizing the Ministry of Agriculture to guarantee term loans made to farmers by chartered banks, Alberta Treasury branches, and other lenders designated by the Minister.

We verified that this loan guarantee program is available to the entire agricultural sector. Accordingly, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and that these loan guarantees do not confer subsidies.

##### B. Ontario Farm Tax Reduction Program

In the examination of the questionnaire responses submitted by the respondents in this investigation, the Department discovered a tax credit taken by Renkema.

The Ontario Farm Tax Reduction Program was created by Order-in-Council No. 2284/83 to provide a rebate

of 60 percent of municipal property taxes on farmland to all eligible farmers in Ontario. For a farm property to be eligible, annual municipal property taxes must be at least Can\$20, and the farm must realize a gross annual production of Can\$5,000 if located in eastern or northern Ontario, and Can\$8,000 if located elsewhere in the province.

We verified that Renkema and Unsworth, which are not located in eastern or northern Ontario, used this program. Because all farmers in Ontario are eligible for this tax reduction if their gross annual production value is Can \$8,000, we determine that this portion of the program is not limited to a specific enterprise or industry, or group of enterprises or industries. Accordingly, we determine that the tax reduction for Ontario farmers not located in eastern or northern Ontario does not confer a subsidy.

#### C. Investment Tax Credits (ITCs)

Petitioner alleges that the Canadian producers or exporters of cut flowers received countervailable benefits from ITCs available in Canada. There are several categories of ITCs in Canada. In our *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, (51 FTR 10041, March 24, 1986), we determined that the basic seven percent rate for qualified property is not limited to a specific industry or region.

We verified that Unsworth did not claim any ITCs on the tax return filed during the review period, and that the only ITC Renkema claimed was the basic seven percent rate for investment in qualified property. Because the basic seven percent ITC rate is not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies within specific regions, we determine it is not countervailable.

#### III. Programs Determined Not To Be Used

Based on our verification of the responses of the Government of Canada, the Government of the Province of Ontario, Unsworth, and Renkema, we determine that the producers or exporters in Canada of cut flowers did not use the following programs, which were listed in our notice of initiation:

##### A. Federal Programs

##### 1. Program for Export Market Development (PEMD)

Petitioner alleges that the Canadian producers or exporters of certain fresh cut flowers receive countervailable benefits from PEMD. PEMD is available

to businesses in the agricultural sector for the purpose of developing, increasing, and sustaining new or existing export markets. Assistance is in the form of interest-free loans with repayment terms dependent upon the success of the export promotion activity.

We verified that Renkema and Unsworth did not benefit from this program during the review period.

##### 2. Promotional Projects Program (PPP)

The PPP is the funding vehicle through which the government underwrites some of the cost to industry of participating in promotional events that are organized by the Department of External Affairs. The program encompasses trade fairs abroad, trade missions and trade visitors.

We verified that the companies under investigation did not benefit from this program.

##### B. Joint Federal-Provincial Programs

##### 1. Agricultural and Rural Development Agreements (ARDA)

Under ARDA, the federal and provincial governments entered into agreements to promote economic development and to alleviate conditions of social and economic disadvantage in certain rural areas. The focus of these agreements were alternative land use, soil, and water conservation, and economic development in rural regions.

We verified that the companies under investigation have not received any funding from any ARDA.

##### 2. General Development Agreements (GDA)

GDAs provided the legal basis for cooperation between departments of the federal and provincial governments in the establishment of economic development programs. We verified that the companies under investigation have not received any funding under GDA or any subsidiary agreement.

##### 3. Economic and Regional Development Agreements (ERDA)

Similar to the GDAs, and essentially a continuation of these agreements, ERDA subsidiary agreements establish programs, delineate administrative procedures and set forth the relative funding commitments of the federal and provincial governments. This assistance is directed to infrastructure projects of productivity-enhancing initiatives.

We verified that the companies under investigation have received no benefits from ERDA.

##### 4. Crop Insurance

There are joint federal-provincial crop insurance programs in Canada. We

verified that floricultural products are not covered by the federal-provincial crop insurance program.

##### C. Provincial Programs

##### 1. Ontario Development Corporation (ODC)

The ODC controls, approves and administers loan and loan guarantee programs, including a program of export support loans. We verified that neither of the companies under investigation received assistance under this program.

##### 2. Provincial Crop Insurance

Petitioner alleges that producers of exporters of the subject merchandise from Canada may receive benefits from provincial crop insurance programs. The respondents in this investigation are located in Ontario, and we verified that there is no separate provincial crop insurance program in Ontario.

##### 3. Alberta Beginning Farmer Assistance Program

Petitioner alleges that loans at preferential rates are made to beginning farmers in Alberta. We verified that the respondents in this investigation are Ontario-based businesses and, therefore, ineligible to receive benefits or participate in this program.

##### 4. British Columbia Greenhouse Farm Income Insurance Program

Under the British Columbia Greenhouse Farm Insurance Plan, participants are eligible for financial assistance when average farm prices fall below a benchmark cost of production figure. Because we verified that neither of the company respondents are located in British Columbia, we determine that this program was not used.

##### 5. British Columbia Agricultural Land Development Assistance

Administered under the British Columbia Agricultural Credit Act, this program provides long-term loans to make permanent improvements to land classified as "farmland." Because we verified that neither of the company respondents are located in British Columbia, we determine this program was not used.

##### Petitioner's Comments

*Comment 1:* Petitioner alleges that the Department should use best information otherwise available when making its final determination because Unsworth and Renkema did not account for 60 percent of exports to the United States during the review period. Although the response alleges that U.S. Census data do not accurately reflect actual trade

and asserts that the discrepancy "must have been re-exported, offshore product," the response provides no information regarding the nature of this re-export market.

**DOC Response:** After consultation with the U.S. Customs Service, we have learned that the U.S. Census IM-146 statistics do not accurately reflect imports of standard carnations from Canada. When the statistics were adjusted by removing the improperly recorded entries, the verified exports to the United States of Unsworth and Renkema accounted for more than 60 percent of exports to the United States of cut flowers from Canada during the review period.

**Comment 2:** Petitioner asserts that even if the U.S. Census statistics do not accurately reflect imports of cut flowers from Canada of Canadian origin, the Department still needs to address the issue of how to treat imports from Canada of third country origin. Petitioner submits that in order to check the influx of unfairly traded flowers originating from third countries but transshipped via Canada, the agency should impose the highest countervailing duty rate found in any of the other countervailing duty cases brought by petitioner on Canadian exports of the subject merchandise to the United States.

**DOC Position:** We disagree. There is at present no evidence indicating that large numbers of flowers from third countries are entering the United States through the Canadian border marked as Canadian flowers.

**Comment 3:** Petitioner maintains that the Department should reject the responses and instead use best information available, because the public information submitted by respondents is inadequate.

**DOC Position:** We disagree. Any deficiency in the public version of the response was satisfied by the filing of amended public responses, and counsel for petitioner had access on a timely basis to the confidential information under an administrative protective order.

**Comment 4:** Petitioner argues that the Farm Improvement Loan Program provides countervailable benefits. Petitioner submits that agriculture clearly constitutes a "specific class." The preferential financing extended by the Government of Canada to Canadian farmers is not comparable to the provision of "public goods," or benefits to society at large. The Department's holding that agriculture is too large a group for any benefits conferred to it to be countervailable originated in its Mexican cases (see *Negative*

*Countervailing Duty Determination: Fresh Asparagus from Mexico* (48 FR 21818, May 13, 1983), and *Certain Fresh Cut Flowers from Mexico* (49 FR 15007, April 16, 1984)). This rationale is not applicable to the Canadian economy, although the Department has applied it in prior Canadian cases. The Canadian agricultural sector employs a far smaller percentage of the total Canadian workforce than is the case in Mexico, and the farm improvement loans at issue are available only to farmers.

**DOC Position:** We disagree that this program is countervailable. The Department in such Canadian cases as *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 FR 25087, June 17, 1985), and *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986) placed no limits on the percentage of the population that must be employed in agriculture in order to determine that it is indeed a sector of the economy and not simply an industry or group of industries within that economy.

**Comment 5:** Petitioner alleges that the Department impermissibly excluded the Farm Credit Corporation Program, the Enterprises Development Program, the Ontario Young Farmer Credit Program, and the British Columbia Agriculture Credit Act from its investigation as generally available. Petitioner submits that the Department's refusal to initiate was contrary to the Court of International Trade's teachings in *Bethlehem Steel Corp. v. United States*, 590 F. Supp. 1237 (1980); *Agrexco Agricultural Export Co., v. United States*, 604 F. Supp. 1238 (1985); and *Cabot Corp. v. United States*, 620 F. Supp. 722 (1985). Moreover, with respect to the Farm Credit Program, the Ontario Young Farmer Credit Program, and the British Columbia Agriculture Credit Act, petitioner submits that the Department's determination that the programs are generally available is not applicable in the present case for the same reasons cited in petitioner's Comment 4.

**DOC Position:** We disagree. To the extent that *Bethlehem*, *Agrexco*, and *Cabot* stand for the proposition that generally available subsidies may be countervailable, we disagree with those decisions of the court. Furthermore, petitioner has cited only those decisions which it believes support its position on general availability. Petitioner has omitted any reference to those decisions of the Court of International Trade such as *Carlisle Tire and Rubber Co. v. United States*, 5 CIT 229 (1983) and *AI Tech Specialty Steel Corp. v. United*

*States*, 12 CIT \_\_\_\_\_. Slip Op. 86-124 (December 1, 1986), which clearly support the government's position on specificity. Regarding petitioner's second argument, see DOC Position to petitioner's Comment 4.

**Comment 6:** Petitioner contends that the value of the benefit the Department calculated in the preliminary determination for the Ontario Greenhouse Efficiency program must be adjusted by the new information obtained at verification.

**DOC Position:** We agree. Section 776(a) of the Act requires us to use verified information for our final determination.

#### Respondents' Comments

**Comment 1:** Respondents contend that the Department erred in ruling that the Ontario Greenhouse Energy Efficiency program is limited to a specific enterprise or industry, or group of enterprises or industries. Grants under this program are not limited to the production of particular products. The reference to food or ornamentals in the program covers all products grown in greenhouses, and is available to any farmer using greenhouse technology.

**DOC Position:** We disagree that this program is not a subsidy. This program is not available to the entire agriculture sector in Ontario, but rather is limited to those industries which utilize greenhouse technology in the growth of food and ornamentals.

**Comment 2:** Respondents argue that the Ontario Farm Tax Reduction program should not be considered a subsidy. At the very least, rebates to producers meeting the basic eligibility criterion should not be considered countervailable. Both of the producers/exporters of cut flowers are located in southern Ontario, and are, therefore, subject to the basic eligibility criterion. The Ontario Farm Tax Reduction program is analogous to the Investment Tax Credit where the Department determined in *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986) that the basic seven percent rate for qualified property was not countervailable, because it is not limited to a specific industry or region.

**DOC Position:** We agree that rebates that are provided to farmers only under the basic eligibility criterion are not subsidies.

**Comment 3:** Flowers Canada, which is a trade association representing Canadian producers of flowers, maintains that total Canadian production of standard carnations is

well below the reported imports into the United States of these flowers, thus establishing the fact that U.S. import statistics for standard carnations are in error.

**DOC Position:** Based on our discussions with the U.S. Customs Service, we believe that U.S. import statistics for standard carnations, for the review period, were inaccurate. See our response to petitioner's Comment 1.

#### Verification

In accordance with section 776(a) of the Act, we verified the information and data used in making our final determination. During verification, we followed normal verification procedures, including meetings with government officials and inspection of documents, as well as on-site inspection of the accounting records of the responding companies.

#### Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Canada, except for entries of cut flowers produced by Unsworth, which are entered, or withdrawn from warehouse, for consumption, on or after October 27, 1986. As of the date of publication of this notice in the *Federal Register*, the Customs Service shall require a cash deposit or bond of 1.47 percent *ad valorem* for each entry of this merchandise from Canada other than entries of cut flowers produced by Unsworth.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation, will be refunded or cancelled. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to assess

countervailing duties on all entries of cut flowers from Canada except for entries of cut flowers produced by Unsworth, entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 USC 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration,  
January 12, 1987.

[FR Doc. 87-1141 Filed 1-16-87; 8:45 am]

GILLING CODE 2610-00-0

**EFFECTIVE DATE:** December 10, 1986.  
**FOR FURTHER INFORMATION CONTACT:** Cynthia Gozigian or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 17, 1986, the Department of Commerce ("the Department") published in the Federal Register (51 FR 37050) the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel (45 FR 58516, September 4, 1980). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of Review**

Imports covered by the review are shipments of Israeli fresh cut roses. Such merchandise is currently classifiable under items 192.1810 and 192.1890 of the Tariff Schedules of the United States Annotated.

The review covers the period October 1, 1981 through September 30, 1984 and ten programs: (1) The ECIL; (2) Government-guaranteed Minimum Price Program; (3) preferential short-term financing; (4) government funding of AGREXCO; (5) cash payments to growers for greenhouses; (6) cash payments to packing houses; (7) cash payments from the Export Promotion Fund; (8) fuel grants to rose growers; (9) long-term loans to AGREXCO; and (10) a capital fund for AGREXCO.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, Roses, Inc., and the Government of Israel, we held a public hearing on November 17, 1986.

*Comment 1:* Roses argues that the Department should have used effective rather than nominal interest rates in calculating benefits under the Export Production Fund ("EPF"). Since the Department has information on the effective commercial benchmark rates, Roses contends that the Department should use those rates to ensure that the full amount of the bounty or grant conferred by a loan with non-commercial terms is countervailed. Moreover, making comparisons of effective rates is consistent with Department policy.

The Government of Israel, for its part, contends that the EPF annual preferential rate of 42 percent, used by

the Department for the entire review period, actually increased to 50 percent in 1983 and 82 percent in 1984, rather than remaining constant as the Department has maintained.

*Department's Position:* We agree with Roses. We have revised our calculation of benefits from the EPF to reflect interest rate differentials based on a comparison of effective rates. For our commercial benchmark, we derived quarterly effective interest rates from the annual effective interest rates published for each quarter by the Bank of Israel. For our preferential rate, we used as the best information available the nominal rate of 10.5 percent per quarter for 1982 (42 percent per annum) from the final affirmative countervailing duty determination on potassium chloride from Israel (49 FR 36122, September 14, 1984). Since interest on these loans is paid at the end of the term, and we have no evidence of any charges on these loans other than interest, we consider the nominal preferential rate to be the same as the effective preferential rate.

We have received no documentary evidence of changes in the EPF preferential rate for 1983 or 1984. Therefore, we are using the quarterly 10.5 percent preferential rate as the best information available for the entire period of review. See also, our position on Comment 2.

*Comment 2:* The Israeli government contends that the Department, in using the best information available, incorrectly calculated the maximum benefit available from the EPF. The credit available to an exporter is a percentage of the dollar value of his exports, and this amount is converted into shekels and lent to the exporters.

The Department properly used shekel interest rates but without converting the dollar value of available credit into shekels. This results in a benefit calculated in dollars instead of shekels, and because shekel interest rates are higher than dollar interest rates, the Department overstated the benefit from this program.

*Department Position:* We agree. Eligibility for EPF loans is based on the dollar value of exports, and the total amount available to an exporter is calculated as a percentage of his exports, using the rate-of-credit formula. An exporter draws from this dollar amount but receives shekel-denominated loans. Because we have no information on actual shekel amounts borrowed, we have converted the maximum dollar amount exporters are eligible for into shekels. We treated this amount as being renewed four times

**International Trade Administration  
(C-508-064)**

**Fresh Cut Roses From Israel; Final Results of Countervailing Duty Administrative Review and Determination Not to Revoke Countervailing Duty Order**

**AGENCY:** International Trade Administration, Import Administration Commerce.

**ACTION:** Notice of final results of Countervailing Duty Administrative Review and determination not to revoke countervailing order.

**SUMMARY:** On October 17, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1981 through September 30, 1984 and ten programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we determine the total bounty or grant to be: 11.03 percent *ad valorem*, for the period October 1, 1981 through September 30, 1982; 12.20 percent *ad valorem*, for the period October 1, 1982 through September 30, 1983; and 23.70 percent *ad valorem*, for the period October 1, 1983 through September 30, 1984.



yearly, because the loan terms are for 90 days. To calculate the benefit, we converted the dollar amount to shekels using the exchange rate at the beginning of each quarter. We then multiplied the shekel value by the differential between our benchmark and the preferential rate to determine the benefit from each loan in shekels. Finally, we converted the shekel benefit into dollars using the exchange rate at the end of the quarter because our value of exports was in dollars. In our calculations, we used the quarterly exchange rates certified by the Federal Reserve Bank of New York.

By making this adjustment and the adjustment for effective interest rates discussed in our position on Comment 1 we now find a benefit under the EPF program of 5.91 percent *ad valorem* for the 1981-82 period, 5.89 percent *ad valorem* for the 1982-83 period, and 16.72 percent *ad valorem* of the 1983-84 period.

**Comment 3:** The Israeli government contends that the Department's method of calculation for the EPF program yields a benefit that exceeds the face value of the loans for the 1983/84 growing year. The Government of Israel argues that this is inconsistent with the Department's policy in that the maximum benefit from a loan cannot exceed the benefit found if the loan were a grant, expensed at face value in the year of receipt.

**Department's Position:** In applying the methodology discussed in our responses to Comments 1 and 2, we calculated no benefit from a loan in excess of its face value.

**Comment 4:** The Government of Israel argues that information available to the Department shows that the EPF now provides dollar loans and that the continued use of a shekel interest rate for duty deposit purposes is not based on the best information available.

**Department's Position:** We disagree. We have no documentary evidence on the record to calculate a duty deposit rate based on dollar loans. Therefore, we have used the rate calculated for the 1983/84 period as the best information available for cash deposit purposes.

**Comment 5:** The Israeli government contends that the program of fuel grants to rose growers was terminated after the 1980/81 growing year. Therefore, the Department's assumption that fuel grants existed during the review period is incorrect. The interest savings on low-cost credit, included in the Department's calculation regarding fuel grants, is actually savings received by exporters for the EPF and the Imports-for-Exports Fund. Including these benefits as part of the fuel grants program double-counts the interest savings.

**Department's Position:** We have no documentary evidence that the program of fuel grants to rose growers was terminated. Therefore, as the best information available, we are using the rate found in the last administrative review.

**Comment 6:** Roses claims that the Department ignored three programs found to be bounties or grants by the Court of International Trade ("the CIT") in *Agrexco v. United States*, 604 F. Supp. 1238 (CIT, 1985): (1) Government participation in research and development, (2) Government-funded extension services, and (3) Government support of the Ornamental Plant Production and Marketing Board. Roses argues that the Department's failure to collect data or consider these programs constitutes an abuse of administrative discretion.

**Department's Position:** In our September 4, 1980 countervailing duty order, we found: (1) That research and development conducted at Hebrew University of Jerusalem, Rehovot, and the Volcani Institute of Agricultural Research is not a bounty or grant because the results of the research are available to rose growers worldwide and have been provided to, among others, members of Roses, Inc., the petitioner; (2) that government-funded extension services provided by the Ministry of Agriculture to farmers are not bounties or grants because they are provided to the entire agricultural sector and are not directed exclusively to rose growers or any order industry within the agricultural sector; and (3) that there is no bounty or grant to the Ornamental Plant Production and Marketing Board because it is funded by growers without any budget contribution by the Government of Israel. The CIT remanded all three of these issues for reconsideration because, depending on certain facts, these programs might be bounties or grants.

Our position remains that these three programs are not bounties or grants. On July 3, 1985, the United States moved the CIT to vacate that part of its opinion which remanded the case to the Department. Because the CIT has not yet ruled on this motion, the decision is not yet a final judgment and is not binding.

**Comment 7:** The Israeli government argues that the countervailing duty order on fresh cut roses from Israel should be revoked. Although this order was issued without an affirmative injury determination after January 1, 1980, because at the time Israel was not a "country under the Agreement," the Trade Agreements Act of 1979 ("the TAA") is silent in the matter of

countervailing duty orders issued under section 303 of the Tariff Act on products from a country that becomes a "country under the Agreement" after the issuance of the order. The TAA provides no authority for the imposition of countervailing duties on products from such a country absent an affirmative injury determination. Moreover, the legislative silence does not support an interpretation that Congress intended to perpetuate this countervailing duty order without an injury test.

**Department's Position:** We disagree. The statutory scheme of the TAA indicates that Congress did not intend automatic revocation of countervailing duty orders issued under section 303 of the Tariff Act. If Congress had intended for such an order to be revoked, it could have explicitly provided for revocation. Instead, Congress granted a "country under the Agreement" the injury test in the limited circumstances specified in sections 102 of the TAA (to investigations in progress at the time a country becomes a "country under the Agreement"), 104(b) of the TAA (to section 303 orders in effect on January 1, 1980, if the request for the injury review were made by December 31, 1982), and section 701 of the Tariff Act (to investigations not yet filed on products from a "country under the Agreement"). Congress did not provide for an injury test in the circumstances of this case, where Israel became a "country under the Agreement" after issuance of the order under section 303 of the Tariff Act. To read this failure of Congress to provide for an injury test as a requirement for revocation would produce an absurd result, which we cannot assume Congress intended. If we revoke the order on Israeli roses, we would be according greater rights, i.e., automatic revocation, to later signatories of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code") (which provides "country under the Agreement" status) than to early signatories. Early signatories received the right to an injury review that would result in revocation only if the determination of injury were negative.

**Comment 8:** The Israeli government argues that the Subsidies Code should be treated as law, binding on U.S. administrative agencies, because the TAA specifically approved the Subsidies Code and because, when a U.S. statute is silent on a matter, that statute should not be construed as being in conflict with international treaty obligations. The Subsidies Code and the

GATT require an affirmative injury determination before a countervailing duty can be assessed.

*Department's Position:* We disagree. The U.S. statute is not silent or ambiguous on whether the section 303 order on Israeli roses can remain in effect. We believe that Congress, in the TAA, clearly provided for revocation in certain situations and explicitly failed to provide for revocation in the situation presented by the order on Israeli roses. See, our position on Comment 7.

*Comment 9:* The Government of Israeli argues that there are important policy reasons why the U.S. should revoke the countervailing duty order on fresh cut roses from Israel. The U.S. policy of encouraging liberalization of trade and adherence to international agreements favors revoking this order rather than maintaining it because maintaining the order violates the international obligations of the United States to grant an injury test. For the reasons set forth in Comments 7 and 8, the Israeli government contends that this order should be revoked prospectively from September 18, 1985, the date Israel became a "country under the Agreement."

*Department's Position:* We disagree. It was clear that, before signing the Subsidies Code in August 1985, Israel would not be granted an injury test on the countervailing duty order on fresh cut roses. The Report of the Committee on Ways and Means on the United States-Israel Free Trade Area Implementation Act of 1985 confirms this conclusion. The Committee stated that:

Israel upon its accession to the GATT Agreement will become a "country under the Agreement" under section 701(b) of the Tariff Act of 1930 and thereby receive the material injury test under the U.S. countervailing duty law on dutiable imports; the test already applies to duty-free imports from Israel. The test will be applied prospectively, not to existing countervailing duty orders. (H.R. Rep. No. 99-64, 99th Cong., 1st Sess. 8 (May 6, 1985).)

Israel signed the Subsidies Code after passage of this Act and, we presume, with knowledge of this legislative history.

#### Final Results of Review

After considering all of the comments received, we determine the total bounty or grant to be 11.03 percent *ad valorem* for the period October 1, 1981 through September 30, 1982; 12.20 percent *ad valorem* for the period October 1, 1982 through September 30, 1983; and 23.70 percent *ad valorem* for the period October 1, 1983 through September 30, 1984.

The Department will instruct the Customs Service to assess countervailing duties of 11.03 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1981 and on or before September 30, 1982, 12.20 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1982 and on or before September 30, 1983, and 23.70 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1983 and on or before September 30, 1984.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 23.70 percent of the f.o.b. invoice price on all shipments of Israeli fresh cut roses entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,  
Deputy Assistant Secretary Import  
Administration.

[FR Doc. 86-27726 Filed 12-9-86; 8:45 am]

BILLING CODE 3510-05-M

(C-808-003)

**Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From Israel**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Israel of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 11.59 percent *ad valorem* during the review period. However, consistent with our stated policy of taking into account a program-wide change which occurred after our review period, but prior to the preliminary determination, we are adjusting the duty deposit rate to reflect

changes in the Export Promotion Financing Fund program.

We have notified the U.S. International Trade Commission (the ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Israel that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on entries of this merchandise in an amount equal to 10.79 percent *ad valorem*.

**EFFECTIVE DATE:** February 3, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin, Barbara Tillman, or Ross Cotjanle, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2830, (202) 377-2433, or (202) 377-3534.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Israel of cut flowers. For purposes of this investigation, the following programs are found to confer subsidies:

- Exchange Rate Risk Insurance Scheme.
- Export Promotion Financing Fund.
- Long-Term Development Loans to Agrexco.
- Government Support of the Flower Board.
- Fuel Grants and Low-Cost Credit.

We determine the estimated net subsidy to be 11.59 percent *ad valorem* for all producers or exporters in Israel of cut flowers during the review period. However, we are adjusting the duty deposit rate to reflect a program-wide change in the Export Promotion Financing Fund program that occurred after our review period but prior to our preliminary determination. Thus, the cash deposit or bond on entries of these products will be 10.79 percent *ad valorem*.

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of § 355.28 of the Commerce Regulations (19 CFR 355.28), the petition alleged that producers or exporters in Israel of cut flowers receive, directly or indirectly,

benefits which constitute subsidies within the meaning of section 701 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21956, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Israel is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Israel of the subject merchandise (51 FR 25751, July 16, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Israel in Washington, DC, concerning petitioner's allegations. We received responses from the government and from Agricultural Export Co., Ltd. (Agrexco), and R. Shemi, Ltd. (Shemi), on August 13, 1986. Agrexco and Shemi are exporters of the subject merchandise, and they accounted for at least 60 percent of the United States exports of cut flowers during the review period. Since there are over 1,000 growers of cut flowers in Israel, the government provided information on an aggregate basis for all growers. Additional information was supplied on August 26, September 3, 16, 22, 25 and 28, and October 9, 17, and 31, 1986. Corrections to the responses were filed on November 25, 1986.

On the basis of the information contained in these responses, we made our preliminary determination on October 20, 1986 (51 FR 37925, October 27, 1986). Based upon the request of the petitioner, on November 26, 1986, we extended the deadline dates for the final determinations in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile to correspond to the date of the final determinations in the antidumping duty investigations of

the same merchandise, pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573) (51 FR 43649, December 3, 1986). On January 9, 1987, we extended the deadline date for the countervailing duty determinations on standard carnations from Chile and certain fresh cut flowers from Israel and the Netherlands to coincide with the postponement of the final antidumping duty determination on standard carnations from Chile, in accordance with section 705(a)(1) as amended, 19 U.S.C. 1671d(a)(1) (52 FR 1515, January 14, 1987).

From November 6 to November 18, 1986, we verified the information submitted by the Government of Israel, Agrexco, and Shemi.

At the request of the petitioner, we held a public hearing on December 5, 1986, to afford interested parties an opportunity to present views orally in accordance with our regulations (19 CFR 355.35). Petitioner and respondents filed case briefs on December 18, 1986, post-hearing briefs on December 22, 1986, and comments on the verification reports on January 14, 1987.

#### Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and gerbera, currently provided for in item 192.21 of the TSUS.

#### Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For purposes of this determination, the period for which we are measuring subsidies (the review period) is October 1, 1985 through September 30, 1986, which corresponds to the companies' fiscal year.

Based upon our analysis of the petition, the responses to our questionnaire, verification and comments submitted by the interested parties, we determine the following:

#### 1. Programs Determined to Confer Subsidies

We determine that subsidies are being provided to producers or exporters in Israel of cut flowers under the following programs:

#### A. Exchange Rate Risk Insurance Scheme

The Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Risk Insurance Corporation Ltd. (IFTRIC), is aimed at insuring exporters against losses which result when the rate of inflation exceeds the rate of devaluation and the new Israeli shekel (NIS) value of an exporter's foreign currency receivables does not rise enough to cover increases in local costs.

The EIS scheme is optional and open to any exporter willing to pay a premium to IFTRIC. Compensation is based on a comparison of the change in the rate of devaluation of the NIS against a basket of foreign currencies with the change in the consumer price index. If the rate of inflation is greater than the rate of devaluation, the exporter is compensated by an amount equal to the difference between these two rates multiplied by the value-added of the exports. If the rate of devaluation is higher than the change in the domestic price index, however, the exporter must compensate IFTRIC. The premium is calculated on the basis of the value-added of the exports.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. In *Potassium Chloride from Israel: Final Affirmative Countervailing Duty Determination* (49 FR 36122, September 14, 1984), we stated that we had insufficient data to determine that the premiums and other charges were manifestly inadequate to cover the program's long-term operating costs and losses. We noted, however, that we were not making a conclusive determination on the program's countervailability at that time. However, in the *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1649, January 15, 1987), we found that this program conferred a countervailable benefit on manufacturers, producers, or exporters in Israel of oil country tubular goods.

In this case, we reviewed EIS data which show that EIS operated at a loss from 1981 through 1986. In fact, in the five years of operations, there was only one month where premiums received were greater than compensation paid out. We believe that five years is, in this case, a sufficiently long period to establish that the premiums and other charges are manifestly inadequate to

cover the long-term operating costs and losses of the program. We, therefore, determine that this program confers an export subsidy on exports of cut flowers from Israel.

We calculated the benefit from this program by allocating the amount of compensation Agrexco and Shemi received from IFTRIC, after deducting premiums paid, over the companies' relevant exports during the review period. The calculation was based upon all non-European exports for Shemi and all flower exports to all markets for Agrexco for the period October 1985 to September 1986. We used these exports for the basis of the calculation because that is how the accounting records on this program are maintained in the companies. This resulted in an estimated net subsidy of 8.87 percent *ad valorem*.

#### B. Export Promotion Financing Fund

The Foreign Trade Center of the Ministry of Agriculture operates the Export Promotion Financing Fund to promote the development of export markets for fresh Israeli produce.

Exporters submit a request for participation in promotional activities, and the Ministry determines on the basis of the development potential and in view of the availability of funds whether to approve the request. Approved proposals receive reimbursements of up to 50 percent of actual expenses. The Israeli government requires exporters to provide receipts before granting reimbursements.

On July 10, 1986, the Export Promotion Committee of the Ministry of Agriculture determined at its annual meeting that effective October 1, 1986, no export promotion funds would be provided for promotion of cut flowers in the United States market.

We verified that during the review period Shemi received funds for general advertising of all products in all markets, and Agrexco received funds for promotion of all flowers in the United States and Canada. We also verified that Shemi used a portion of these funds for the promotion of carnation plants and cuttings, rather than for flowers.

Because assistance under this program provides cash payments and is available only to exporters, we determine it is countervailable. To estimate the benefits Shemi received on exports to the United States, we multiplied the value of the funds Shemi received for export promotion for flowers for all markets during the review period by the ratio of Shemi's U.S. exports to its total exports. We calculated the *ad valorem* benefits from this program by dividing the

compensation Shemi and Agrexco received on their exports to the United States by the value of their U.S. exports during the review period. This resulted in an estimated net subsidy of 0.80 percent *ad valorem*.

The Export Promotion Financing Fund is overseen by the Israeli government's Export Promotion Committee. This committee meets once a year to review the past administration of the fund and to set policy for the future. During its most recent annual meeting on July 10, 1986, the committee voted to eliminate as of October 1, 1986, any benefits under the fund for the export of flowers to the United States. When the government in question institutes a program-wide change prior to our preliminary determination and when that change results in complete cessation prior to our preliminary determination of benefits under the program, it is our policy to take that change into account by not including the estimated net subsidy from this program for duty deposit purposes. We are satisfied here that the Export Promotion Committee's action constitutes such a program-wide change. We have accordingly not included the estimated net subsidy from the Export Promotion Fund in the duty deposit rate.

#### C. Long-Term Development Loans to Agrexco

Agrexco received four long-term development loans which had balances outstanding during the review period. Fixed-rate loans were received in 1971 and 1973, and two variable rate loans linked to the Consumer Price Index (CPI) were received in 1980.

These loans were not provided under the Encouragement of Capital Investments in Agriculture Law (ECILA), or under the development budget of the Ministry of Agriculture. (See section II.D. of this notice, which discusses development loans for agriculture.) The Government of Israel did not provide us with information concerning selection criteria for these loans, nor did it provide us with information on the distribution of loans under this program. Because we have no information on the approval process or actual distribution of these loans, we have determined that the loans are limited to a specific enterprise or industry, or group of enterprises or industries.

To determine if these loans are provided on terms inconsistent with commercial considerations, we compared them to a commercial benchmark interest rate. Because there is no fixed-rate long-term borrowing in Israel, we have used as our benchmark the short-term NIS interest rate prevailing in the review period. Based

on this comparison, we find that the loans were provided on terms inconsistent with commercial considerations. Therefore, we determine these development loans to be countervailable.

To calculate the benefit from these loans, we applied our short-term loan methodology. Dividing the amount of interest savings in the review period by the value of total sales of Agrexco and Shemi during the review period, we calculated an estimated net subsidy of 0.04 percent *ad valorem*.

#### D. Government Support of the Flower Board

Petitioner alleges that the Government of Israel may provide funds directly to the Ornamental Plants Production and Marketing Board (Flower Board) or may reduce the Flower Board's expenses by providing staff. The Flower Board is a statutory body established by the Ornamental Plants Production and Marketing Board Law of 1976. The Flower Board is appointed by the Israeli Cabinet acting through the Ministers of Agriculture and Commerce and Industry. However, the Government provides no staff to the Board.

In its responses, the Government of Israel stated that no government support had been provided to the Flower Board. At verification, however, we found that the Flower Board had received funds from the Ministry of Agriculture in the year prior to the review period. The Government of Israel attempted to establish that funds provided by the Ministry of Agriculture to the Flower Board were not intended to support the general activities of the Board, but rather were provided for a research project on ocean transport of flowers. The government claimed that the results of the study were public.

Based on the information provided, we were unable to verify that the Ministry of Agriculture specifically required that the funds be used for this research project. Furthermore, a similar sum of money had been provided by the Ministry of Agriculture in the previous year, also for unspecified purposes. Because respondents did not provide us with the budget of the Flower Board for the review period, we determine on the basis of the best information available that the Government of Israel provided financial support to the Flower Board in the review period and that this financial support is countervailable.

To calculate the benefit from this assistance, we divided the amount of financial support provided to the Flower Board during the year prior to the review period by the value of flower

exports during the review period. The estimated net subsidy is 0.07 percent *ad valorem*.

#### E. Fuel Grants and Low-Cost Credit

In 1982, the Israeli Institute for Farm Research published a survey on the profitability of rose production in the 1980/81 season. This study states that gross income for rose growers included grants for fuel expenses and interest savings on low-cost credit. Petitioner requested that we investigate such benefits.

We verified that Agrexco and Shemi did not receive fuel grants or so-called "low-cost credit" during the review period, but we were unable to verify that growers of cut flowers did not receive these benefits. Although the Government of Israel maintained that the program had been discontinued, they failed to provide evidence of termination of the program or non-receipt of benefits by the growers.

In the Department's recent administrative review under section 751 of the Act, *Fresh Cut Roses from Israel: Final Results of Countervailing Duty Administrative Review and Determination Not to Revoke Countervailing Duty Order* (51 FR 44498, December 19, 1986), we determined the benefit from this program to be 1.81 percent *ad valorem*. On the basis of this determination as the best information available, we determine that the estimated net subsidy for cut flowers is 1.81 percent *ad valorem*.

#### II. Programs Determined Not to Confer Subsidies

We determine that subsidies are not being provided to producers or exporters in Israel of cut flowers under the following programs:

##### A. Export Financing Program

Petitioner alleges that the Government of Israel provides preferential export financing to producers or exporters in Israel of cut flowers through three export credit funds administered by the Bank of Israel. The Export Production Fund provides foreign currency loans to exporters to enable them to finance export production. The Export Shipments Fund provides loans to exporters to enable them to extend credit in foreign currency to their overseas customers. Under the Imports-for-Exports Fund, exporters receive loans in foreign currency in order to finance imported materials used for export production. The export financing program was referred to in our notice of initiation as the "Export Credit Fund."

Since July 1985, the Bank of Israel has authorized commercial banks to lend

specified levels of foreign currency to exporters. The interest rate charged by the commercial banks for these foreign currency loans is the London Interbank Offered Rate (LIBOR) plus two percent.

During the review period, Agrexco and Shemi received dollar loans under the export financing program. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided as preferential rates.

Dollar loans are not otherwise available in Israel, and we were not able to obtain benchmark interest rates for these loans from independent sources. In *Potassium Chloride from Israel: Final Affirmative Countervailing Duty Determination* (49 FR 36122, September 14, 1982), we found that the appropriate benchmark for short-term foreign currency loans was LIBOR plus two percent. Based on information received at verification concerning offers for short-term foreign currency loans, we consider that this is still the appropriate benchmark.

Comparing the benchmark interest rate to the rates charged on these loans, we determine that none of the loans were provided at preferential rates, and, thus are not countervailable.

##### B. Grants Under the ECILA

The ECILA came into effect in April 1981, to encourage capital investments in agriculture. To accomplish this, the ECILA provides investment and drawback grants for approved agricultural enterprises. Investment grants are provided for a portion of the investment. Drawback grants relate to taxes on investment. ECILA grants were also referred to as "Cash Payments to Growers for Greenhouses" and "Cash Payments to Packing Houses" in our notice of initiation.

Persons requesting ECILA grants apply to a regional office of the Ministry of Agriculture. The regional office forwards the application together with its recommendation to the national office of the Ministry, which in turn makes its recommendation to the Agricultural Investment Authority. This Authority decides whether to approve the request. If approved, the grant is paid upon completion of the project or upon specified stages of completion. Since the beginning of this program in 1981, producers and exporters of cut flowers have received both investment and drawback grants.

We verified that grants have been received by agricultural enterprises of all types throughout Israel, and, that the grants are not contingent upon export performance or limited to companies in specific regions of the country.

Therefore, we determine that the program is not countervailable.

##### C. Preferential Accelerated Depreciation and Other Tax Benefits Under ECILA

The ECILA provides tax benefits for approved enterprises. The text of the ECILA indicates that producers that receive "approved undertaking" status are automatically eligible for ECILA tax benefits. We verified that ECILA grants to "approved undertakings" were provided throughout the entire agricultural sector. Therefore, we determine that these tax benefits are not limited to a specific enterprise or industry, or group of enterprises or industries. In addition, we verified that Agrexco, which was not eligible for ECILA benefits, received no benefits from preferential tax provisions since its tax liabilities were not affected by the application of these provisions.

##### D. Development Loans for Agriculture

Development loans were the primary source of institutional long-term credit in the agriculture sector until they were abolished in 1985. This program is also referred to in the notice of initiation as "Long-Term Loans to Packing Houses/Exporters." Development loans in the agricultural sector were provided as part of the development budget of the Ministry of Agriculture. Shemi had development loans approved by the Ministry of Agriculture on which principal was outstanding during the review period.

We verified that the agricultural development loans were given on the same terms to virtually all agricultural producers, irrespective of region or development zone and irrespective of export performance. Accordingly, we determine that the program is not countervailable.

##### E. General Research and Development Programs

Petitioner believes that exporters of cut flowers are benefitting from research and development programs funded by the Government of Israel.

We verified that the Government of Israel sponsors and carries out a great deal of agricultural research in all fields by grants to universities and research institutions. Results of basic and general research are widely published in Israel and abroad.

Since the results of these research and development activities are made available for public use, we determine that these programs are not countervailable.

#### F. Government Funding of Agrexco and Purchase of Agrexco Shares

Petitioner alleges that the Government of Israel provided funds, in the form of cash grants or purchases of equity, to Agrexco.

We verified the government's funding of Agrexco consisted of government purchases of shares in the company. Agrexco is a non-profit company which acts as the seller, marketer, and distributor of all types of Israeli agricultural products. Most of Agrexco's stock is owned by agricultural producers and not the government. Since Agrexco operates as a cooperative, it does not retain profits, but always covers its costs and obligations. Although Agrexco is a non-profit company, it is classified as a private company under Israeli law. We have consistently held that government provision of equity does not *per se* confer a countervailable benefit. Government equity infusions bestow countervailable benefits only when they occur on terms inconsistent with commercial considerations.

There is no evidence in the record indicating that the purchase of Agrexco's shares was inconsistent with commercial considerations. We verified that the government's investment was justified by the value of Agrexco's real assets, its logistics and sales organization, its reputation and the goodwill of its customers, and by its "Carmel" brandname. Due to these attributes, the government could realize a reasonable rate of return on its investment in Agrexco by sale of its equity to other parties, despite the fact that it is a not-for-profit company. We note that the Government of Israel has in the past sold its equity in commercial companies, including other not-for-profit companies. Therefore, we determine that the government's purchase of equity in Agrexco does not confer a countervailable benefit.

#### III. Programs Determined Not To Be Used

Based on the verification of the responses of the Government of Israel, Agrexco, and Shemi, we determine that the producers or exporters in Israel of cut flowers did not use the following programs, which were listed in our notice of initiation:

##### A. Interest Subsidy Payments

Petitioner alleges that beginning on July 1, 1985, exporters in Israel of cut flowers may receive under the Encouragement of Capital Investments Law (ECIL), grants from the Government of Israel for the rebate of interest on loans provided by commercial banks.

We verified that Agrexco and Shemi did not receive any benefits under this program, and that agricultural enterprises including the flower industry are not eligible to receive benefits under the ECIL program.

##### B. Government-Guaranteed Minimum Price Program

The Ministry of Agriculture operates a program to guarantee a minimum income to farmers on their crops in case of bad marketing conditions. The government determines a national level of production to be covered by the guarantee program, sets a minimum price based on expected market conditions, and pays half of the difference between the guaranteed price and the actual average market price, if the market price is lower than the guaranteed price.

We verified that no claims or payments were made under this program for carnations or gerbers during the review period.

##### C. Capital Fund for Agrexco

Agrexco's 1979/80 financial statement shows that a capital fund for Agrexco was created from Ministry of Agriculture investment grants.

We verified that Agrexco's capital fund was created in 1985, and that it has not received any investment grants since then. We allocate grants over the average useful life of renewable physical assets in the industry involved, as determined by the U.S. Internal Revenue Service in the 1977 Class Life Asset Depreciation Range System. According to our grant methodology, grants bestowed in 1985 only bestow benefits for ten years in the flower industry. As a result, benefits are no longer accruing from these grants.

##### D. Rebate of Export Insurance Premiums

Petitioner alleges that exporters of cut flowers receive rebates of export insurance premiums from the Government of Israel. We verified that Agrexco and Shemi did not hold export insurance, other than Exchange Rate Risk Insurance, during the review period.

##### E. Encouragement of Industry (Taxes) Law (EIL)

Petitioner alleges that producers or exporters in Israel of cut flowers may receive benefits under the following sections of the EIL: Preferential accelerated depreciation, reduction in income tax rates, and tax deductible inventory adjustment. We verified that Agrexco and Shemi did not claim any of these benefits during the review period

and that growers are not eligible for EIL benefits.

##### F. Other Benefits Referenced in the ECIL

The Foreword to the Encouragement of Capital Investments Law (ECIL) makes reference to benefits in the form of labor training supported by the Ministry of Labor. We verified that Shemi and Agrexco did not receive any benefits from the Ministry of Labor, and that cut flower growers are not eligible for benefits by virtue of the fact that agricultural producers receive benefits only under ECILA.

##### G. Specific Research and Development Funding

Research undertaken on behalf of the Government of Israel under contract with outside parties is disseminated according to the terms of the contract. We verified that Agrexco and Shemi did not receive any grants for research and development or participate in any government-sponsored research and development programs. In addition, we found no evidence indicating that specific research and development funding was provided for the products under investigation.

#### IV. Program Determined To Be Terminated Property Tax Exemption on Equipment

Petitioner alleges that producers or exporters in Israel of cut flowers may claim tax benefits under the ECIL that allow eligible enterprises a 10-year exemption from payment of one-sixth of property taxes on equipment. We verified that property taxes were abolished for all taxpayers in Israel as of April 1, 1981. Accordingly, no property taxes were assessed against any company in Israel from 1981 through 1984. A new special temporary property levy was introduced on April 1, 1985, and was enacted in August 1985 under the Property Levy Law. These taxes were applicable to all companies in Israel, and no company was exempt from the tax. Currently, no property taxes are in effect with respect to any company in Israel.

##### Petitioner's Comments

*Comment 1:* Petitioner argues that the appropriate test for determining whether Agrexco and Shemi received preferential accelerated depreciation and other tax benefits under the ECILA is whether, absent use of these benefits, there would have been a tax liability.

*DOC Position:* We found the ECILA program to be available and provided to the entire agriculture sector and, therefore, not countervailable. In



addition, we verified that Shemi would have had no tax liability in the review period even if it had not used accelerated depreciation and other tax benefits. Finally, since Agrexco is not a producer of agricultural products, it is not eligible for any ECILA benefits.

**Comment 2:** Petitioner contends that even if all enterprises and individuals within the agricultural sector received identical benefits under the ECILA grant program, the program would still be countervailable given its limitation to the agricultural industry or group of industries. The program is clearly distinguishable from, for instance, government construction of highways intended to assist the entire population and not a particular industry or enterprise. See e.g., *Cabot Corp. v. United States*, 620 F. Supp. 722 (1985).

**DOC Position:** We disagree. To the extent that *Cabot* supports the proposition that generally available benefits may be countervailable, we disagree with the decision of the court. The Court vacated its remand order on mootness grounds by order dated November 20, 1986, Consol. Court No. 83-7-01044. Furthermore, the decisions of the Court of International Trade in *Carlisle Tire and Rubber Co. v. United States*, 6 CIT 229 (1983) and *Al Tech Specialty Steel Corp. v. United States*, 12 CIT Slip Op. 88-124 (December 1, 1986) clearly support our position on specificity, which is that benefits provided to more than a specific enterprise or industry, or group of enterprises or industries, are not countervailable.

**Comment 3:** Petitioner contends that the export financing program is countervailable. Petitioner alleges that Agrexco and Shemi are uncreditworthy and would not have had access to foreign currency loans at a rate of LIBOR plus two percent on the commercial market. Furthermore, because Agrexco transfer to growers funds it receives under the export financing program, the Department must determine whether the growers were creditworthy. Finally, petitioner argues that, even if they are creditworthy, neither the Israeli growers, Agrexco, nor Shemi would be able to obtain loans at the rate of LIBOR plus two percent. The Department's reliance in the preliminary determination on the Government of Israel's representation that the benchmark for foreign currency loans should be LIBOR plus two percent is incorrect. While this is the commercial rate at which Israeli banks are able to raise funds are relied on a profitable basis, it does not represent the rate available to Agrexco, Shemi and the

growers. The advantage bestowed by a subsidy is measured by the value of the benefit to the recipient, not the cost of the loan to the Israeli banks.

**DOC Position:** Petitioner's uncreditworthiness allegation is untimely as it was not made until December 8, 1986, after the verification was completed. Furthermore, in accordance with the Subsidies Appendix, when we calculate benefits from short-term loans we do not treat uncreditworthy companies differently from creditworthy companies.

We agree that the benchmark for short-term loans should be based upon the rate for comparable commercial loans, rather than the cost of the loans to the Israeli banks. We have determined that the rate of LIBOR plus two percent is available to Israeli companies borrowing foreign currency. (See our discussion in section II.A.) Since Agrexco is the borrower and obligated to repay the loans, what Agrexco does with the money is irrelevant and there is no need to look at the creditworthiness of the growers.

**Comment 4:** Petitioner maintains that the development loans, which were provided by the Ministry of Agriculture, are countervailable because the government has discretion in granting the loans. The different sectors of agriculture receiving loans represent a specific group of enterprises or industries and, hence, these benefits are countervailable.

**DOC Position:** We disagree. We verified that development loans provided by the Ministry of Agriculture were given to virtually all types of agricultural commodities at the same interest rate regardless of location. The Department has consistently held that benefits available and provided to the entire agricultural sector of a country are not countervailable (See, e.g., *Final Negative Countervailing Duty Determination, Fresh Asparagus from Mexico* (48 FR 21813, May 13, 1983)).

**Comment 5:** Petitioner contends that in determining whether benefits from research and development programs are generally available, the Department must look behind the apparent range of beneficiaries to determine who in fact is intended to benefit. The Court of International Trade has held that "it is immaterial whether the information is disseminated to all groups, but whether the research and development is targeted to assist a particular, rather than a general industry . . . If the research is targeted to the production of roses, it is a subsidy." *Agrexco v. United States*, 604 F. Supp. 1238, 1241-42 (CIT 1985).

**DOC Position:** In determining whether research and development programs are countervailable, we examine whether the results of such programs are publicly available. At verification, we found that research and development support was provided by the Ministry of Agriculture to universities and research institutions and that the results of this research were publicly available worldwide. Under these circumstances, we have found research and development not countervailable. The decision cited by the petitioner, *Agrexco v. United States*, 604 F. Supp. 1238 (CIT 1985), is not binding. On July 3, 1985, the United States moved the CIT to vacate that part of its opinion which remanded the case to the Department. Because the CIT has not yet ruled on this motion, the decision is not yet a final judgment.

**Comment 5:** Petitioner contends that based on the reasoning of the Subsidies Appendix and the decision in *Stainless Steel Plate from the United Kingdom: Final Results in Countervailing Duty Administrative Review* (51 FR 44656, December 11, 1986), the government's equity purchases in Agrexco are inconsistent with commercial considerations and should be allocated in accordance with the Department's grant methodology. Since Agrexco is a not-for-profit company, and its shares are not publicly traded, but are held only by the agricultural cooperatives and boards and by the government, the government's purchase of Agrexco's shares is inconsistent with commercial considerations. The Department must place itself in the position of a private investor assessing the prospects of the company at the time of the investment to determine whether the purchases were consistent with commercial considerations.

**DOC Position:** We disagree that the government's purchase of Agrexco's shares was inconsistent with commercial considerations. We verified that Agrexco operates a world-wide marketing system with an annual turnover of more than 200 million dollars, and that its trademark and goodwill have significant value. Therefore, we cannot conclude that the government's equity purchases were inconsistent with commercial considerations.

**Comment 7:** Petitioner maintains that the Department was unable to verify that flower growers did not benefit from the fuel grants and low-cost credit program. Petitioner contends that, as best information available, the Department should use the *ad valorem* benefit found in the recent section 751



review determination concerning fresh cut roses from Israel.

**DOC Position:** We agree. We verified that neither Agrexco nor Shemi benefitted from this program, but we were unable to verify that flower growers did not receive benefits from this program. During verification, the Israeli government contended that references to this program originated in a report by the Institute of Farm Income Research, entitled, "The Profitability of the Greenhouse Sector in 1980/81." The government provided a letter dated November 3, 1986, from the manager of the Institute, stating that the fuel grants program operated in 1980/81, but was discontinued after one year, and that it has not been reintroduced. The letter further stated that the manager did not believe cut flower growers had received fuel grants. The letter also maintained that the subsidized credit mentioned in the report represented the difference between the real value of credit and the cost of actual credit that was extended to rose growers by exporters, and that exporters received this credit under the Bank of Israel export financing program.

However, the Israeli government did not provide us with documentation concerning the termination of this program, and we have no information on the actual utilization of the program by flower growers during the program's operation. Therefore, we have concluded on the basis of best information available, that benefits were provided to growers of cut flowers under this program.

**Comment 8:** Petitioner contends that respondents did not support their claim that the Ministry of Agriculture did not contribute to the Flower Board's 1985/86 budget. The record is clear that the Ministry of Agriculture in two prior years made contributions to the Flower Board's budget, and there is no indication that the Ministry discontinued its contributions. In the absence of verification of non-receipt, the Department should presume, as best information available, that the Ministry of Agriculture provided the Board during the review period with the same sum it has provided in each previous year.

**DOC Position:** We agree. See section I.D. of this notice.

**Comment 9:** Petitioner contends that, even if benefits under the export promotion financing fund are no longer provided on flower exports to the United States, the duty deposit rate for this program should not be zero. Petitioner believes that the budget of the fund has not been reduced out, rather, funds under the program have simply been allocated away from the United States to other countries. Given the fungibility

of money, freeing funds in the exporter's third country promotion budget for use in promoting exports to the United States can result in the same benefits as previously were conferred by directly funding export promotion to the United States.

**DOC Position:** We disagree. We have no evidence indicating that the Israeli government is increasing export promotion financing on cut flowers to other countries. Moreover, even if benefits for shipments to the third countries were increased, there would be no benefit on exports of cut flowers to the United States, since funds under this program are granted to reimburse specific expenses. Although market-specific or product-specific benefits may have the effect of reducing a company's total expenses, the Department's policy is to allocate such benefits entirely to the market or product which they were intended to benefit.

**Comment 10:** Petitioner objects to the Department's decision to permit the respondents to limit their response to data covering the 1986 fiscal year, rather than also providing information covering the 1985 fiscal year.

**DOC Position:** We withdrew our request for 1985 fiscal year data on September 17, 1986, because the 1986 fiscal year (October 1 through September 30) represents the most recent period for which data are available. The 1986 fiscal year is subsequent to Israel's signing of the Free Trade Agreement with the United States and becoming a signatory of the Subsidies Code, which changed its export financing program. Furthermore, since the growing season ended in May, all exports of cut flowers had ended for fiscal year 1985. In addition, verification was conducted in November, after the completion of the 1986 fiscal year. Therefore, it was unnecessary for the respondents to supply data for the 1985 fiscal year.

#### Respondents' Comments

**Comment 1:** Respondents argue that ECILA grants are not countervailable because these grants are awarded to producers in all sectors of agriculture without regard to location, and the grants are not tied to export performance.

**DOC Position:** We agree. We verified that the ECILA grants are available and provided to the entire agricultural sector in Israel, and the grants were not contingent upon export performance.

**Comment 2:** Respondents maintain that the development loans for agriculture are not countervailable, because they were granted to producers in all sectors of agriculture, and there

was no preference for specific products or regions of the country.

**DOC Position:** We agree that the agricultural development loans are not countervailable. We verified that they were available to, and provided on, equal terms to the entire agricultural sector.

**Comment 3:** Respondents contend that ECILA tax benefits should be considered generally available for the same reasons that the ECILA grants should not be found countervailable. In addition, both Agrexco and Shemi demonstrated that they would not have paid taxes during the review period even absent the application of the ECILA tax benefits. Therefore, Agrexco and Shemi did not benefit from this program.

**DOC Position:** We agree. We verified that ECILA tax benefits are available to the entire agricultural sector in Israel and that Agrexco and Shemi did not benefit from ECILA tax benefits during the review period. See section II.C. of the notice.

**Comment 4:** Respondents contend that the Exchange Rate Risk Insurance Program is structured and operated on sound commercial considerations and is not a countervailable subsidy. The program operates as a risk insurance program designed to balance over time. Because the program has been operating for only about five years, the Department cannot conclude that long-term costs will not be met by premiums. Moreover, this program merely attempts to restore exporters to approximately the same position they would have enjoyed had the domestic economy not eroded their profits during the period of time between the establishment of a contract price for exported goods and the receipt of payment. Therefore, this program does not provide exporters with a benefit.

**DOC Position:** We disagree. (See *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1649, January 15, 1987)). The Government of Israel owns all of the shares of IFTRIC and acts as a re-insurer to cover IFTRIC's losses up to 150 million U.S. dollars. In general, to determine whether government-controlled export insurance programs confer countervailable benefits, the Department examines whether the insurance premiums and other payments charged are adequate to cover the program's long-term operating costs and losses. This approach is consistent with Paragraph (j) of the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the

General Agreement of Tariffs and Trade (the Subsidies Code), under which an export subsidy is defined to include:

the provision by governments (or special institutions controlled by governments) . . . of insurance or guarantee programs against increases in the costs of exported products or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.

EIS operated at a loss in each of the years 1981 through 1985. Despite continuing losses, which have amounted to millions of U.S. dollars each year, EIS has not raised the premium rates charged or increased other charges to its customers. We believe that five years is, in this case, a sufficiently long period to establish that the premiums and other charges are manifestly inadequate to cover the long-term operating costs and losses of the program. We therefore conclude that the premiums and other charges levied by EIS are manifestly inadequate to cover its long-term operating costs and losses.

Finally, we believe that the EIS program does provide a benefit to exporters. Exporters who do not participate in this program must absorb the losses that result when the rate of inflation in Israel exceeds the rate of devaluation of the shekel.

**Comment 5:** Respondents maintain that benefits accorded under the export promotion financing fund were overstated in their responses because of errors in reporting. The Department should use the corrected and verified amounts of benefits for the review period. In addition, as was verified, the program has been eliminated for promotion of flowers to the United States, so the duty deposit rate should be zero on this program.

**DOC Position:** We agree. Section 776(a) of the Act requires us to use verified information for our final determination. It is our stated policy to take into account a verified program-wide change, which occurs after the review period, but prior to the preliminary determination, if no benefits are still accruing under the program, by adjusting the duty deposit rate.

**Comment 6:** Respondents contend that government ownership of shares in Agrexco is not a subsidy because the ownership constitutes a commercially sound equity purchase rather than a grant. It was demonstrated at verification that Agrexco's shares have substantial commercial value. The Government of Israel does sell its shares in government companies, and if Agrexco's shares were sold the government would expect to realize a profit.

**DOC Response:** We agree. We verified that Agrexco operates a world-wide marketing system with annual turnover of more than 200 million dollars. Since Agrexco operates as a cooperative, it does not retain profits, but it always covers its costs and obligations. We also verified that Agrexco's trademark, "Carmel," contains significant value. We found no evidence indicating that the government's purchase of Agrexco's shares was not a commercially sound equity purchase. The Government of Israel is free to sell all or part of Agrexco's shares at any time.

**Comment 7:** Respondents contend that the position of Agrexco is distinguishable from that of British Steel in *Stainless Steel Plate from the United Kingdom; Final Results of Countervailing Duty Administrative Review* (51 FR 44666, December 11, 1986), which petitioner cites as providing the applicable standard to show that government ownership in Agrexco is a subsidy. In *British Steel* the government was the only shareholder, while in the case of Agrexco, the government is only one of several shareholders. The government has always paid the same price for Agrexco's shares as other investors have paid. The percentage of government ownership in Agrexco has decreased in recent years because Agrexco has issued additional shares to its other shareholders. Agrexco is a viable company, that operates as a cooperative and always covers its costs and obligations. By contrast, British Steel was "a dying concern bolstered by the government infusions of equity." Despite the fact that Agrexco does not pay dividends, ownership of Agrexco is a valuable asset.

**DOC Position:** We agree that the position of Agrexco is distinguishable from that of British Steel. There is no evidence in this case that the government's investment in Agrexco was inconsistent with commercial considerations.

**Comment 8:** Respondents contend that the export financing programs are not countervailable. All loans under these programs during the review period were made and repaid in foreign currency at the interest rate of LIBOR plus two percent. These programs do not represent government lending because commercial banks lend the foreign currency out of money they themselves raise. The government's role is to limit the volume of foreign currency lending because of currency controls and to set a maximum interest rate. Moreover, it is irrelevant that Agrexco distributes to growers money it borrows under this

program, because Agrexco is liable for repayment.

**DOC Position:** We agree that these programs did not provide benefits to growers or exporters of cut flowers during the review period because the interest rate did not exceed the benchmark. However, we disagree that the program is not countervailable due to the fact that commercial banks lend the money out of funds they raise. Financing required by government action, even if the government is not the source of funds, can provide a subsidy. See, e.g., *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1649, Jan. 15, 1987).

#### Verification

In accordance with section 776(a) of the Act, we verified the information and data used in making our final determination. During verification, we followed normal verification procedures, including meetings with government officials and inspection of documents, as well as on-site inspection of the accounting records of the responding companies.

#### Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Israel which are entered, or withdrawn from warehouse, for consumption on or after October 27, 1986. As of the date of publication of this notice in the Federal Register, the Customs Service shall require a cash deposit or bond of 10.79 percent *ad valorem* for each entry of this merchandise from Israel.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation.

will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to assess countervailing duties on all entries of cut flowers from Israel, entered or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 USC 1671d(d)).

Lee W. Mercer,

*Acting Assistant Secretary for Trade Administration.*

January 27, 1987.

[FR Doc. 87-2128 Filed 2-3-87; 9:45 am]

GILLMAN CODE 2514-22-02

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(C-301-003)

**Roses and Other Cut Flowers From Colombia; Preliminary Results of Countervailing Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of Preliminary Results of Countervailing Duty Administrative Review.

**SUMMARY:**

The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia. The review covers the period July 1, 1983 through December 31, 1985 and fourteen programs.

As a result of the review, the Department has preliminarily determined that Colombian cut flower exporters complied with the terms of the suspension agreement that as in effect during the review period. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** March 2, 1987.

**FOR FURTHER INFORMATION CONTACT:** Bernard Carreau or Susan Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 15, 1986, the Department of Commerce ("the Department") published in the *Federal Register* (51 FR 44930) the final results of its last administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia (48 FR 2158, January 18, 1983). On January 22, 1986, we received requests in accordance with section 355.10 of the Commerce Regulations for an administrative review of the agreement from three domestic interested parties, Roses Inc., the California Floral Trade Council, and the Floral Trade Council. On January 31, 1986, we received review requests from the Asociacion Colombiana de

Exportadores de Flores and the Association of Floral Importers of Florida. We published the initiation of the review of February 18, 1986 (51 FR 5751). The Department has now conducted that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of Review**

Imports covered by the review are shipments of Colombian roses and other fresh cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts. Roses are currently classifiable under item 192.1800, and other fresh cut flowers (excluding miniature carnations) under item 192.2100 of the Tariff schedules of the United States annotated.

The review covers the period July 1, 1983 through December 31, 1985 and fourteen programs: (1) CAT/CERT; (2) air freight reductions; (3) Resolutions 59 and 22; (4) Decree 2366; (5) research and development fund; (6) duty and tax exemptions under Plan Vallejo; (7) FFA; (8) FFI; (9) FCE; (10) FONADE; (11) Resolution 42; (12) benefits to Free Industrial Zones; (13) preferential export insurance; and (14) countertrade.

**Revised Suspension Agreement**

In our last administrative review, we found that Colombian cut flower exporters used working capital financing under Resolution 59 and fixed asset financing under Decree 2366, programs that we determine to be countervailable in the suspended countervailing duty investigation on certain textile mill products and apparel from Colombia (50 FR 9863, March 12, 1985) ("the textiles suspension of investigation"). Therefore, we revised the suspension agreement to include any programs that we consider countervailable or potentially countervailable, including Resolution 59 loans and Decree 2366 loans. The revised agreement did not go into effect until December 15, 1986. Therefore, the current administrative review concerns compliance with the original agreement that was in effect during the period of review.

**Analysis of Programs**

**(1) CAT/CERT**

The Government of Colombia provided payments to exporters to cut flowers in the form of negotiable Tax Credit Certificates ("CAT") that could be used for the payment of various taxes or sold on the stock exchange at a discount. Rebates were calculated as a

percentage of (1) the value of the exported product attributable to the domestic value-added content, an (2) imported inputs on which duties have been paid. We preliminarily determine that Colombian cut flower exporters did not receive CAT payments on exports of this merchandise to the United States during the period of review.

On April 1, 1984, the Colombian government established in Law 48/83 the Tax Rebate Certificate ("CERT"), which replaces the CAT. The CERT is intended to rebate all or part of the indirect taxes paid by exporters. Like the CAT, the CERT is freely negotiable on the stock market and can be used for paying a variety of taxes.

The Banco de la Republica, Colombia's central bank, certified to the Department on February 19, 1986 that it has been withholding CAT or CERT payments from signatories to the agreement on shipments to the United States and Puerto Rico since January 13, 1983. Therefore, we preliminarily determine that exporters did not receive CAT or CERT payments on shipments of this merchandise to the United States during the period of review.

**(2) Air Freight Reductions**

The Civil Aeronautics Board (DAAC), an agency of the Colombian government, established in Resolution 5833 minimum and maximum air freight rates for a variety of products, including cut flowers. The maximum DAAC rate for cut flowers is considerably lower than the air freight rates for other products carried over the same routes, thereby raising the possibility that the Colombian government is attempting to suppress cut flower freight rates. Section D(3) of the suspension agreement states that the Department may consider rescinding the agreement if the air freight rates paid by cut flower exporters approach the government-mandated maximum rates set by the DAAC. If we found such rates, we might consider them indicative of government control rather than the result of competitive forces.

Pursuant to Resolution 5833, updated by Resolution 6333, the minimum and maximum air freight rates in effect during the review period for fresh cut flowers were US \$0.45 and \$0.60 per kilogram, respectively, for flowers shipped from Colombia to the United States. We found that most rates negotiated between cut flower exporters and private air-freight companies were lower than the DAAC maximum rates during the period of review. In a few cases, the rates exceeded the maximum rates because of a charge for cooling

services. This charge is not controlled by the DAAC. Generally, we find that freight rates for cut flowers are a function of competition in the air freight market and not the result of government suppression of those rates. We therefore preliminarily determine that this program provides no benefit and no reason to consider rescinding the suspension agreement.

### (3) Resolutions 59 and 22

Resolution 59, which was passed by the Monetary Board of Colombia on August 30, 1972, and Resolution 22, which was passed by the Board of Directors of the Export Promotion Fund ("PROEXPO") on December 13, 1984, provide working capital financing at preferential rates to firms that manufacture, store, or sell products destined for export. All industries are eligible, except producers of coffee, petroleum, and petroleum by-products. Resolution 59 and Resolution 22 loans are administered by PROEXPO, an agency of the Colombian government. Resolution 59 loans are for 180 days and the interest is paid quarterly, in advance. Resolution 22 loans are for periods up to one year with interest paid quarterly, in advance. In February 1986, the maximum annual interest rate was 22 percent. Colombian exporters of cut flowers received working capital loans under Resolutions 59 and 22 during the period of review.

For a benchmark rate, we used the short-term interest rate available from the Fund for Agricultural Financing ("FFA") and the Agrarian Fund, the major sources of financing to agriculture. The rate for both funds in February 1986, the most recent information available, was 22.5 percent. On this basis, we preliminarily determine the current interest differential to be 0.5 percent.

Since we determined Resolution 59 to be countervailable in the textiles suspension of investigations we included it in the revised suspension agreement of December 15, 1986. The revised agreement requires Colombian cut flower exporters not to apply for, or receive, any short-term export financing from PROEXPO, including Resolution 59 and 22 loans. The revised agreement requires the exporters to repay any such outstanding loans immediately or renegotiate the interest rates to rates that are at or above the most recent short-term benchmark interest rate determined by the Department.

### (4) Decree 2366

Under Decree 2366, PROEXPO provides exporters with long-term financing for capital investment at

preferential rates. The amount of the loan cannot exceed 100 million pesos, the maximum term is five years, and the annual interest rate is 18 percent. Exporters of cut flowers used this program during the period of review.

There are no long-term loans available from the commercial banking system in Colombia. For a benchmark, we used the long-term interest rate of 21 percent available from the FFA in February 1986, the most recent information available. On this basis, we preliminarily determine the current interest differential to be 3 percent.

Since we determined this program to be countervailable in the textiles suspension of investigation, we included it in the revised suspension agreement of December 15, 1986. The revised agreement requires Colombian cut flower exporters not to apply for, or receive, any long-term financing provided by PROEXPO, including Decree 2366 loans. The revised agreement requires the exporters to repay any such outstanding loans immediately or renegotiate the interest rates to rates that are at or above the most recent long-term benchmark interest rate determined by the Department.

### (5) Research and Development Fund

Petitioners alleged that a portion of the CAT/CERT rebates earned on exports to countries other than the United States was being diverted into a special fund for research and development and the promotion of flower consumption in the United States.

The Colombian government states that the plan for this fund was never put into effect, and there were no research and development programs available for the floriculture industry during the review period. On July 23, 1986, PROEXPO issued Resolution No. 10, which opened a special account in the Banco de la Republica for the diversification and development of the cultivation of flowers and vegetables for external markets. The Resolution requires that any funds expended under this program be disbursed in a manner consistent with the suspension agreement.

On this basis, we preliminarily determine that exporters did not use this program during the period of review.

### (6) Duty and Tax Exemptions under Plan Vallejo

The Plan Vallejo exempts exporters from import duties on imported raw materials, intermediate products, and capital goods used to produce exported products. The exemption of customs duties and indirect taxes on imports of

physically incorporated inputs is not countervailable. However, exemptions on non-physically incorporated inputs, such as imported capital goods, are countervailable when the exemption is conditioned upon exportation.

We found that 14 companies under review received exemptions on machinery used for fumigation, irrigation, and cooling devices. Since we preliminarily determined this program to be countervailable in the preliminary affirmative countervailing duty determination on miniature carnations from Colombia (51 FR 37934, October 27, 1986), we included it in the revised suspension agreement of December 15, 1986 and required that Colombian cut flower exporters not apply for or receive any benefits from this program.

### (7) Other Programs

We examined the following programs and preliminarily determine that exporters of cut flowers did not use them during the period of review:

- (A) Fund for Agricultural Financing ("FFA");
- (B) Fund for Industrial Financing ("FFI");
- (C) Capital Formation Fund ("FCE");
- (D) Fund for National Economic Development ("FONADE");
- (E) Resolution 42 Loans;
- (F) Benefits to Free Industrial Zones;
- (G) Preferential Export Insurance; and
- (H) Countertrade.

### Preliminary Results of Review

As a result of our review, we preliminarily determine that the signatories to the suspension agreement complied with the terms of the suspension agreement that was in effect during the review period. The agreement can remain in force only so long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that the signatories comprised over 87 percent of exports of the merchandise to the United States during the period of review.

Interested parties may submit written comments on these preliminary results and may request disclosure and/or a hearing within 14 days of the date of publication of this notice. Any hearing, if requested, will be held on the 14th day after publication, or the following workday. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of any issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: February 20, 1987.

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[C-223-601]

**Suspension of Countervailing Duty Investigation; Certain Fresh Cut Flowers From Costa Rica**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce has decided to suspend the countervailing duty investigation involving certain fresh cut flowers from Costa Rica. The basis for the suspension is an agreement to eliminate or offset completely all benefits provided by the Government of Costa Rica that we find to constitute bounties or grants on exports of certain fresh cut flowers to the United States.

**EFFECTIVE DATE:** January 13, 1987.

**FOR FURTHER INFORMATION CONTACT:** Steven Morrison or Barbara Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1248, 377-2438, or 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing certain fresh cut flowers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleged that producers or exporters in Costa Rica of certain fresh cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act).

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, we initiated an investigation

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1 FR 21954, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On July 25, 1986, the petitioner requested an extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Costa Rica is not a "country under the agreement" within the meaning of section 701(b) of the Act, as amended. Therefore, sections 303(a)(1) and 303(b) of the Act apply to this investigation. The merchandise being investigated is nondutiable. However, there is no international obligation within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Costa Rica. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

On June 20, 1986, we presented a questionnaire to the Government of Costa Rica concerning petitioner's legal position. We received the government and company responses on July 11 and 14 and August 4 and 5. We asked supplemental questions on August 17. Supplemental responses were received on September 4, 5 and 17. Because of the extension of the preliminary determination, we were able to verify the responses to the questionnaires prior to the preliminary determination. Verification was conducted in Costa Rica from September 22-26, 1986.

On August 11, 1986, we received a letter on behalf of American Flower Corporation, S.A., challenging the finding of The Floral Trade Council and requesting dismissal of the petition. As we have previously stated, see e.g., *National Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Roundfish from Canada*, (51 FR 10041, March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members of the investigation provide a clear indication that there are grounds

to doubt a petitioner's standing, the Department will review whether the opposing parties do, in fact, represent a major proportion of the domestic industry. In this case, we have not received any opposition from the domestic industry.

We issued an affirmative preliminary determination on October 20, 1986 (51 FR 37928, October 27, 1986). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act were being provided to producers or exporters in Costa Rica of certain fresh cut flowers. We preliminarily determined that the estimated net bounty or grant was 19.54 percent *ad valorem*. The programs preliminarily determined to confer bounties or grants were:

- Tax Credit Certificates;
- Exporters' Exemptions of Taxes, Surcharges and Duties on Imports;
- Exporters' Tax Credits for Sales and Selective Excise Taxes on Domestic Purchases.

We directed the U.S. Customs Service to suspend liquidation of all entries of certain fresh cut flowers from Costa Rica that are entered or withdrawn from warehouse, for consumption and to require a cash deposit or the posting of a bond on entries of these products in the amount equal to the net bounty or grant.

On October 3, 8, 14, and 15, November 26 and December 1, we received additional data, information and translations, in response to questions arising during verification. Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on December 3, 1986.

On December 5, 1986, we initialled a proposed Suspension Agreement with respect to certain fresh cut flowers from Costa Rica. Petitioner and respondents have had 30 days during which to submit comments regarding the proposed Suspension Agreement. Their comments have been received and taken into consideration.

#### Scope of the Investigation

The products covered by this investigation are miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard carnations and pompom chrysanthemums, currently provided for in item 192.21 of the TSUS.

#### Petitioner's Comments

*Comment 1:* Petitioner argues that a Suspension Agreement should not be undertaken because the Department

cannot adequately monitor the proposed Agreement. It notes that the Department does not have verified information on the use of programs by most of the producers and says that the Department cannot rely on the producers' representations. The lack of information about these other companies and the possibility of their using other programs creates suspicions that all available programs may not be covered by the Agreement.

*DOC Position:* In the negotiation of this Suspension Agreement, we paid particular attention to our ability to monitor the use of programs and compliance with the terms of the Agreement. Signatories to the Agreement are required to renounce all programs which could possibly confer countervailable benefits. The Agreement requires the flower growers and the Government of Costa Rica to maintain records in such a way that compliance can be easily monitored.

As to the possibility of undiscovered programs, we note that the Suspension Agreement requires Costa Rican producers and exporters of certain fresh cut flowers not to apply for or receive any bounties or grants which are countervailable under the Act. We have no reason to believe that any of the signatories, whether verified or not, undertake this Agreement in bad faith.

*Comment 2:* Petitioner notes that an integral part of the Agreement involves undertakings by the Government of Costa Rica. However, the Government of Costa Rica does not appear to keep adequate sales and export records or statistics to fulfill its responsibilities under the Agreement. Given these circumstances, the Department cannot adequately monitor the Agreement.

Petitioner also notes that future changes in the tax credit certificate (CAT) program, which the Government of Costa Rica described in its response to the Department's questionnaire, make it possible that this program will be used as a tool to create new or augmented benefits.

*DOC Position:* Although the Government of Costa Rica has agreed to undertake certain responsibilities as part of this Agreement, these responsibilities do not require the Government of Costa Rica to supply data that it does not already collect. We have been specific about what records Government of Costa Rica must keep for future verifications. Thus, we have diminished monitoring uncertainties. Sales and export statistics will be supplied by the producers of certain fresh cut flowers to their trade

association and by their association to the Department.

A primary undertaking of the Government of Costa Rica is to notify the Department if producers or exporters of the subject merchandise apply for or receive, directly or indirectly, any new or substitute benefits on exports of the subject merchandise to the United States. We believe that this provision, coupled with requirements on exporters not to apply for or accept such benefits, will prevent companies from receiving additional or enhanced benefits under the programs. It will also cover any changes in the CAT program that might affect this Agreement.

*Comment 3:* Petitioner argues that Congress intended suspension agreements to permit rapid resolutions to unfair trade cases. However, in this case, the agreement leads to a resolution contemporaneous with the due date of the final determination. Because Congress intended suspension agreements to be unusual events, because agreements have often been used to evade the trade laws, and because this agreement does not offer any real savings in time or expense to the Department, petitioner argues that the department should instead complete its investigation and issue a final affirmative determination.

*DOC Position:* Except where there is agreement to cease exportation, it is usually not possible to sign a suspension agreement prior to our verification. Verification is essential to assure that all programs are dealt with appropriately in the suspension agreement itself. Furthermore, all deadlines associated with the suspension agreement process have been met, including the date for initialing an agreement, and notifying petitioner. In addition, all parties have had thirty days during which to file comments. Given that verification is an important element in the suspension agreement process and that all due dates have been met, we consider that this procedure affords as rapid a resolution as possible of this countervailing duty investigation.

With respect to the petitioner's comment that suspension agreements have been used to evade the trade laws, we recognize that not all suspension agreements that the Department has negotiated have been successful. This is particularly true of earlier agreements negotiated when the Department had little experience in this area. However, in recent agreements we have been able to correct the problems that existed in earlier agreements. Also, as the petitioner points out, the Department has terminated or renegotiated those

agreements that it no longer considers to be in the public interest. By these actions, we have demonstrated to suspension agreement signatories that we will not allow the terms of an agreement to be circumvented.

Finally, the Department agrees that suspension agreements should remain unusual actions. The last time the Department entered into a countervailing duty suspension agreement was over a year ago. In this case, the commitment of the Costa Rican flower growers to enter such an Agreement, together with the firm commitment of the Government of Costa Rica to support such an Agreement convinced us that this was the most appropriate resolution to this countervailing duty investigation.

#### Respondents' Comments

*Comment 1:* Respondents request that the Suspension Agreement be relaxed to allow companies to receive CATs after the effective date of the Agreement, for shipments of the subject merchandise to the United States made before the effective date of the Agreement.

*DOC Position:* In general, we determine that the benefit from a subsidy occurs when the cash flow from that subsidy takes place. Therefore, for this program, the benefit occurs when the company actually uses or sells its CAT and not at the time when it makes a shipment that eventually results in the receipt of a CAT. We note that in the preliminary determination we calculated the benefit from this program based on the amount received for CATs actually sold during the review period. Since the benefit from a CAT occurs when the CAT is used or sold, and not when the shipment is made on which the CAT is received, the Suspension Agreement requires the cut flower growers to give up all CATs after the effective date of the Agreement on shipments of the subject merchandise to the United States, regardless of when those shipments were made.

*Comment 3:* Respondents want to limit return of their outstanding tax credit certificates, CATs, to those issued for exports of the subject merchandise to the United States rather than those issued for exports of all merchandise as specified in the initial Agreement.

*DOC Position:* We agree and accordingly have amended the Suspension Agreement so that it does not prohibit Costa Rican exporters from continuing to receive tax credit certificates for exports of merchandise that is entirely outside the scope of the Agreement. However, we believe that most outstanding tax credit certificates for shipments to the United States by cut

flower exporters are at least partly for those fresh cut flowers included in the scope of the Agreement.

The Central Bank is not precluded by this Agreement from reissuing returned tax credit certification for merchandise entirely outside the scope of the Agreement. However, the respondents have the burden of documenting, through their written business records, that those exports to the United States receiving a reissued tax credit certificate are not covered at all by this Agreement.

*Comment 3:* The respondents argue that the complete elimination of accelerated depreciation for fresh cut flower producers is too broad. The restriction should be limited to accelerated depreciation available only to exporters. American Flower objects to the fact that accelerated depreciation cannot be used in connection with products not subject to investigation.

*DOC Position:* Since the only accelerated depreciation schedule now available in Costa Rica is the one provided to qualified exporters, the Agreement is limited to that accelerated depreciation program. However, since it is possible to create other accelerated depreciation programs which may confer bounties or grants, any creation of a new accelerated depreciation program is subject to the terms of sections II. G. and H of the Agreement.

In order to accept a suspension agreement, the law requires us to be satisfied that we can monitor it. For this reason, the Suspension Agreement requires companies to give up the accelerated depreciation program on all products. Accelerated depreciation covers capital investments such as tractors, buildings and parking lot pavement, not products such as cut flowers. We cannot measure how much of a capital asset is used for cut flowers exported to the United States, for cut flowers sold elsewhere, for cut flowers unsold, and for other agricultural production. We are not aware of any way, short of producers non-use of this program, that we can monitor the Agreement as required by U.S. law. Therefore, we have entered this Agreement based on the condition that this program be completely renounced by exporters of fresh cut flowers to the United States.

*Comment 4:* American Flower observes that the Agreement calls for complete renunciation of the Certificate for Increasing Exports (CIEX) benefits and calls for complete non-use of the exemption from taxes, surcharges and duties on any imports not physically incorporated into exports. American Flower argues that these limitations are



broader than justified by the covering railing duty law.

**DOC Position:** The CIEX payments are used on increasing total exports in one year when compared to total exports in the preceding year. Since receipt of benefits under this program is based on comparisons of total exports, it is not possible to have a partial renunciation of the program.

The exemptions from import duties, taxes and surcharges applies to such items as sprinkler nozzles, plastic growing trays, chemicals and building materials. We cannot monitor the use of these products to assure that those receiving duty-free treatment are never used in connection with the production of cut flowers exported to the United States. Therefore, we require cut flower producers to give up these exemptions on all imports not physically incorporated into exports.

**Comment 5:** American Flower argues that the Suspension Agreement appears to prohibit use of Agrichemical Law (Law No. 7017), which is generally available to all agricultural producers.

**DOC Position:** The Department has made no determination whether the benefits of the Agrichemical Law confer by way of duties or grants or whether such benefits are limited in practice to exports. We have not determined that the items imported by producers of fresh cut flowers and granted exemption under the Agrichemical Law are also given duty-free treatment when imported by other agricultural producers. If the benefits are available to and used by all agricultural producers, the Agreement would not prevent companies from receiving tax exemptions under this law. Since this law was enacted after our review period, its status will be examined in any administrative review of this Agreement that may be requested.

**Comment 6:** American Flower notes that the proposed Suspension Agreement appears to prohibit receipt of tax credits for domestic purchases of items that are physically incorporated into the exported product.

**DOC Position:** The Department has amended the initialled Suspension Agreement to allow tax credits for indirect taxes on domestic purchases that are physically incorporated into an exported product. However, we note that, as the program is currently structured, some products which qualify for tax credits are not necessarily incorporated into an exported product. For example, certain fresh cut flower producers who take advantage of the domestic purchase tax credit for items physically incorporated into the exported product must prove, through

their business records, that these products are indeed incorporated into exports and that they otherwise paid these taxes for domestic purchases not exported.

**Comment 7:** The respondents want the Department to change the wording of section III.C. of the Suspension Agreement, which now requires them not to apply for or receive bounties or grants which "might be"

countervailable. They would prefer to limit it to benefits which are "likely to be" countervailable.

**DOC Position:** The Department enters this agreement in the full expectation that it will not discover new bounties or grants in subsequent administrative review. We prefer to use the more general "might be" words because we believe this wording will encourage resolution of questions before they become problems.

**Comment 8:** American Flower asks the Department to delete section III.E.2. of the Agreement requiring separate accounting treatment for Costa Rican income tax purposes of income from U.S. sales of the subject merchandise. American Flower claims this requirement is unnecessary and burdensome.

**DOC Response:** In negotiating with the respondents, we agreed that cut flower producers could use the exporter's income tax exemption for export earnings, except for income from exports of the subject merchandise to the United States. In order to limit the renunciation of the program in this way, we must be certain that we can adequately segregate earnings from exports of cut flowers to the United States from other export earnings. Requiring companies to segregate these earnings for income tax purposes is the best way for us to meet this monitoring requirement.

**Comment 9:** American Flower notes that section III.A. of the Agreement imposes a reporting requirement on Acoflor, the flower producers' association, and section III.B. imposes a reporting requirement on the individual producers. American Flower suggests that all reporting be done by Acoflor.

**DOC Position:** The requirements of section III.A. are for commercial information about the fresh cut flower industry, periodically required to comply with terms of the agreement. This information will be routinely collected by Acoflor.

The individual exporters have the earliest knowledge of their own activities which may violate the terms of this Agreement. This is what the reporting requirements of section III.B. are directed to cover. If there are no

potential violations by signatories of this Agreement, no reports under section III.B. will be required.

#### Suspension of Investigation

The Department has consulted with the petitioner and respondents and has considered their comments submitted with respect to the proposed Suspension Agreement. We have determined that the Agreement will eliminate or offset completely the amount of the estimated net bounty or grant on the subject merchandise exported directly or indirectly to the United States, that the Agreement can be monitored effectively, and that the Agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the Agreement, signed January 5, 1987 are set forth in Appendix A to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries of certain fresh cut flowers from Costa Rica entered or withdrawn from warehouse, for consumption, effective October 27, 1986, as directed in our notice of *Preliminary Affirmative Countervailing Duty Determination: Certain Cut Flowers from Costa Rica* (51 FR 37928, October 27, 1986) is hereby terminated.

Any cash deposit on entries of the subject merchandise from Costa Rica pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the Agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act (19 U.S.C. 1671c(f)(1)(A)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

#### Appendix A—Suspension Agreement

##### *Certain Fresh Cut Flowers From Costa Rica*

Pursuant to the provisions of section 70 of the Tariff Act of 1930, as amended ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters of certain fresh cut flowers ("cut flowers") in Costa Rica (hereinafter referred to collectively as the "Costa Rican producers and exporters") enter into the following

Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Costa Rica agrees to take such reasonable steps within its authority as are necessary to ensure that the renunciation of subsidies by the Costa Rican producers and exporters of cut flower is effectively monitored and implemented. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on June 10, 1986 (51 FR 21954) with respect to cut flowers from Costa Rica, subject to the terms and conditions set forth below.

#### *I. Scope of Agreement*

The Agreement applies to cut flowers exported directly or indirectly from Costa Rica to the United States. Cut flowers means fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* ("TSUS"), and standard carnations and pompom chrysanthemums, currently provided for in item 192.21 of the TSUS. Hereafter, these will be referred to as the subject merchandise or cut flowers.

#### *II. Basis of the Agreement*

The Costa Rican producers and exporters of cut flowers, accounting for 100 percent of the total exports of the subject merchandise from Costa Rica to the United States, agree as follows:

A. The Costa Rican producers and exporters of cut flowers will not apply for or receive any benefits for shipments of the subject merchandise to the United States under the Tax Credit Certificates (CAT) program and will return to the Central Bank of Costa Rica, as of the effective date of this Agreement, any unused certificates received on shipments to the United States that include the subject merchandise.

B. The Costa Rican producers and exporters of cut flowers will not make use of accelerated depreciation in the calculation of income taxes.

C. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any income tax exemption for export earnings for income derived from exporters of the subject merchandise to the United States.

D. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any bounties or grants for increased exports of any product under the certificate for increasing exports (CIEX) program.

E. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any exemptions from taxes, surcharges and duties on any

imports not physically incorporated into any exports.

F. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any exporters' credits for sales tax and selective excise tax on domestic purchases not physically incorporated into any exports.

G. The Costa Rican producers and exporters of cut flowers will not apply for or receive any bounties or grants which are countervailable under the Act. A bounty or grant which is "countervailable under the Act" is any bounty or grant which has been or might be found by the Department to be countervailable in any investigation or section 751 review under the Act.

H. The Costa Rican producers and exporters of cut flowers shall notify the Department, in writing, as least thirty days prior to applying for or accepting any new benefit which they have reason to believe is, or is likely to be, a countervailable bounty or grant on shipments of the subject merchandise, exported, directly or indirectly, from Costa Rica to the United States.

I. If any program, under which subsidies have been received in the past and which is included in this Agreement, is found in this proceeding not to constitute a countervailable benefit under the Act in the notice of suspension of investigation, the final determination or the final results of an administrative review of this Agreement under Section 751 of the Act, then the renunciation of the benefits under that program will no longer be required.

#### *III. Monitoring of the Agreement*

A. The Costa Rican producers and exporters of cut flowers, acting through the *Asociacion Costarricense de Floricultores* (Acoflor), a Costa Rican trade association with official, semi-public status, to which all Costa Rican producers and exporters of cut flowers belong, agree to supply the Department with any information and documentation which the Department deems necessary to demonstrate there is full compliance with the terms of this Agreement. The Costa Rican producers and exporters of cut flowers also agree to provide copies of all such documents as the Department deems necessary in connection with verifying full compliance with the terms of this Agreement.

B. Each producer and exporter of cut flowers will notify the Department if it:

1. Transships the subject merchandise through third countries to the United States;

2. Alters its position with respect to any terms of the Agreement; or

3. Applies for or receives, directly or indirectly, the benefits of programs described in paragraph II.

C. The Department will request information and may perform verifications periodically, pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III. A. and B. above.

D. The Costa Rican producers and exporters of cut flowers, through Acoflor, agree to provide to the Department within 45 days from the end of each calendar quarter, beginning with the quarter ending March 31, 1987, all information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A certification that the Costa Rican producers and exporters of cut flowers have not applied for or received, directly or indirectly, any countervailable benefits on the subject merchandise exported, directly or indirectly, from Costa Rica to the United States;

2. A certification that the Costa Rican producers and exporters of cut flowers continue to be in full compliance with this Agreement;

3. The volume and value of cut flowers exported to the United States during the calendar quarter just completed.

E. In order to assure compliance with the terms and scope of this Agreement, the Costa Rican producers and exporters of cut flowers agree to implement the following measures:

1. Separate invoicing and documentation of the subject merchandise exported to the United States.

2. Separate accounting treatment for tax purposes of income derived from exports of the subject merchandise to the United States.

3. Maintenance of accounting records which track imports eligible for tax and duty exemptions, and domestic purchases eligible for tax credits, on items physically incorporated into exports of cut flowers. These accounting records should also demonstrate that taxes and duties have been paid on imports, and tax credits have not been received on the same domestic purchase when used for domestic sales or on non-physically incorporated inputs.

#### *IV. General Provisions*

A. In entering into this Agreement, the Costa Rican exporters and producers of cut flowers do not admit that any of the programs investigated or included in this Agreement constitute subsidies

the meaning of the Act or the CATT Subsidies Code.

B. The provisions of section 704(i) of the Act shall apply if:

1. Any one or more of the Costa Rican producers and exporters of cut flowers who are signatories to this Agreement, or any new signatories, withdraw from or refuse to participate in this Agreement; or

2. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

C. If the Department learns of any new producers or exporters to the United States of the subject merchandise, it may attempt to negotiate an agreement with the additional producers or exporters.

D. Additionally, should exports to the United States by the producers and exporters account for less than 85 percent of the subject merchandise imported, directly or indirectly, into the United States from Costa Rica, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject merchandise as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

E. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of this Agreement shall be consistent with the final determination issued in the continued investigation.

#### *V. Undertaking by the Government of Costa Rica*

A. In consideration of the foregoing Agreement between the Costa Rican producers and exporters of cut flowers and the Department of Commerce, the Government of Costa Rica agrees to take such reasonable steps, within its authority, as are necessary to ensure that the renunciation of benefits in this Agreement by the Costa Rican producers and exporters of cut flowers is effectively implemented and monitored, including:

1. Notifying the relevant agencies within the Government of Costa Rica with specific program responsibility of the terms of this Agreement in order to ensure actions by those agencies consistent with the terms of this Agreement;

2. Supplying information and documentation possessed by the

Government, that the Department deems necessary to demonstrate compliance by the Costa Rican producers and exporters of cut flowers with the terms of this Agreement;

3. Maintaining a centralized system of Poliza de Desalmacenaje records applicable to all imports by exporters of the subject merchandise;

4. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

5. Notifying the Department if producers or exporters of cut flowers other than those which are parties to this Agreement export cut flowers to the United States and whether such producers and exporters have agreed to undertake the obligations specified under this Agreement as applying to them.

6. Notifying the Department if the Government becomes aware that the Costa Rican producers and exporters of cut flowers are transshipping the subject merchandise through third countries to the United States;

7. Notifying the Department if the Government alters its position with respect to any of the terms of this Agreement;

8. Notifying the Department if the Costa Rican producers and exporters of cut flowers apply for or receive, directly or indirectly, the benefits of the Costa Rican programs described in paragraph II., or any other Costa Rican programs found to be countervailable within the meaning and terms of this Agreement, in the final determination or any subsequent review under section 751 of the Act, on exports of the subject products, directly or indirectly, from Costa Rica to the United States; and

9. Notifying the Department if, to its knowledge, the Costa Rican producers and exporters of cut flowers apply for, or receive, directly or indirectly, any new or substitute benefits on exports from Costa Rica to the United States in contravention of paragraph II G. above.

B. The Government of Costa Rica's undertaking under this section is not an admission that any of the programs investigated or included in the Agreement constitute subsidies under the Act or the CATT Subsidies Code.

C. The Government of Costa Rica recognizes that its undertaking is of substantial importance to the continuation of this Agreement.

#### *VI. Effective Date*

The effective date of this Agreement is the date of publication in the Federal Register. The provisions of this Agreement apply to exports on or after the effective date.

Signed on this 5th day of January 1987 for the Government of Costa Rica.

Rodrigo Sotela.

*For the Government of Costa Rica.*

Signed on this 5th day of January 1987 for the Asociación Costarricense de Floricultores.

Andrew Jaxa-DeBicki.

*Counsel for Acoflor.*

Signed on this 5th day of January 1987 for the Costa Rican Producers and exporters of cut flowers.

Andrew Jaxa-DeBicki.

*Counsel for Costa Rican producers and exporters of cut flowers.*

I have determined, pursuant to section 704(b) of the Act, that the provisions of Section II eliminate or offset completely the countervailable benefits, within the meaning and terms of this Agreement, that the Government of Costa Rica is providing with respect to cut flowers exported, directly or indirectly, from Costa Rica to the United States. Furthermore, I have determined that this suspension of the investigation is in the public interest, that the provisions of Section III. and V. ensure that this Agreement can be monitored effectively, and that this Agreement meets the requirements of section 704(d) of the Act.

U.S. Department of Commerce

Gilbert B. Kaplan.

*Deputy Assistant Secretary for Import Administration.*

#### *List of Producers and Exporters to the United States*

1. American Flower Corp., S.A.
2. Flores del Cerro
3. Agroflor de Paraiso S.A.
4. Hermelink y Garces S.A.
5. Tico Flor S.A.
6. Cooexflo R.L.
7. Compania Agricola Flex S.A.
8. Exportor de Cartago S.A.
9. Flor Bella S.A.
10. Lianpa S.A.
11. Floricultura de Costa Rica S.A.
12. Vivero El Zamorano S.A.
13. Flores del Iztau S.A.
14. Inversiones Costa Flor. S.A.
15. Coopeflor.

[FR Doc. 87-598 Filed 1-12-87]

BILLING CODE 3510-05-M

1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1987.

[FR Doc. 87-19463 Filed 8-24-87; 8:45 am]

BILLING CODE 3510-08-M

[C-223-601]

**Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From Costa Rica**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Costa Rica of certain fresh cut flowers as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 17.70 percent *ad valorem*. However, consistent with our stated policy of taking into account program-wide changes that occur before our preliminary determination, we are adjusting the duty deposit rate to 17.03 percent *ad valorem* to reflect changes in the Exporter Exemption for Taxes, Surcharges and Duties on Imports program. The Department of Commerce and producers and exporters of certain fresh cut flowers entered into a suspension agreement on January 5, 1987. However, we continued the investigation at the request of petitioner. The suspension agreement will remain in force, and we shall not issue a countervailing duty order as long as the conditions of the suspension agreement are met.

**EFFECTIVE DATE:** AUGUST 25, 1987.

**FOR FURTHER INFORMATION CONTACT:** Steven Morrison, Office of Investigations, or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 377-0189 or 377-2786.

**SUPPLEMENTARY INFORMATION**

**Final Determination**

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in

Costa Rica of certain fresh cut flowers. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Exporters' Exemption from Taxes, Surcharges, and Duties on Imports.
- Exporters' Credit for Sales and Selective Excise Taxes on Domestic Product Purchases.
- Tax Credit Certificates (CAT).

We determine the estimated net bounty or grant to be 17.70 percent *ad valorem*. However, we are adjusting the duty deposit rate to reflect program-wide changes in the Exporters' Exemption from Taxes, Surcharges and Duties on Imports program that occurred before the preliminary determination. Therefore, the duty deposit rate is 17.03 percent *ad valorem*.

#### Case History

Since the last Federal Register publication pertaining to this case, (*Suspension of Countervailing Duty Investigation: Certain Fresh Cut Flowers from Costa Rica* (52 FR 01356, January 13, 1987)) the following event has occurred: On January 15, 1987, the petitioner requested that this investigation be continued under section 704(g) of the Act. Therefore, we are required to issue a final determination in this investigation.

#### Scope of Investigation

The products covered by this investigation are miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard carnations and pompom chrysanthemums, currently provided for in item 192.21 of the TSUS.

#### Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 28, 1984).

For purposes of this determination, the period for which we are measuring bounties or grants (the review period) is fiscal year 1985, October 1, 1984 through September 30, 1985. Based upon our analysis of the petition, responses to our questionnaire, verification, and comments received from interested parties, we determine the following:

#### I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to producers or exporters of certain fresh cut flowers from Costa Rica under the following programs:

##### A. Certain Benefits Provided to Holders of Export Contracts

During the review period, American Flower had an export contract with the Government of Costa Rica under the Economic Emergency Law (*Ley para el Equilibrio Financiero del Sector Publico*). The export contract is a document which itemizes benefits that an exporter is eligible to apply for and receive. It is not itself a program; it only conveys eligibility for benefits, not actual benefits. Export contract benefits, which were verified as used, are described below:

1. *Exporter Exemptions for Taxes, Surcharges and Duties on Imports.* Businesses with export contracts may be exempted from paying six out of seven separately calculated duties and taxes normally levied on imported raw materials, intermediate products and capital goods used to produce exported finished products. Import tax exemptions on inputs not physically incorporated in an exported product, such as building materials, electrical sockets and plastic trays, when the exemptions are limited to exporters, are countervailable export subsidies. We verified that American Flower received these exemptions under its export contract during the review period and have included them in our subsidy calculations.

Certain of the exemptions of customs duties and indirect taxes are for inputs that are physically incorporated in an exported product. American Flower received exemptions for imported plastic sleeves used to export flowers in bunches and for imported fertilizers used in growing exported plants. We determined that these items were physically incorporated in the exported product and have not included these exemptions in our subsidy calculation. However, because part of the tax exemptions received were attributable to imported fertilizers which were used to produce cut flowers for the domestic market, we allocated the exemption from import taxes applied to fertilizers between export and domestic sales, and countervailed the exemption attributable to domestic sales. This was done because these benefits were available only to holders of export contracts.

A ten percent recapture tax was imposed on the amount a company saves when it is exempt from paying import duties and taxes. It was levied against only some imports which benefit from the exemptions. We determined, from government import duty collection records, the actual amount of recapture tax American Flower paid. In accordance with section 771(6)(A) of the Act, we reduced the subsidy rate by the amount of this tax paid because it was tied to the duty and tax exemption and it reduced the net exemption received.

During the review period, some materials imported by American Flower, e.g., greenhouse building materials used for flower production, were re-exported to its wholly-owned cut flower farm in Panama which supplies that domestic market. For items partially used in Costa Rica and partially re-exported to Panama, we reduced the amount of the subsidy calculated by the portion attributable to shipments to Panama. After making these adjustments, we divided the net savings under this program by total export sales and calculated an estimated net bounty or grant of 4.37 percent *ad valorem*.

In cases in which program-wide changes have occurred prior to a preliminary determination and where the changes are verifiable, the Department's practice is to adjust the duty deposit rate to correspond more closely to the eventual duty liability. We verified that three taxes, i.e., the specific duty, the economic stabilization tax and the recapture tax, were eliminated after January 1, 1986. No entries of imports have been subject to, or exempted from, these taxes since January 1, 1986. Therefore, we have adjusted the duty deposit rate to reflect this change. The duty deposit rate for this program is 3.71 percent *ad valorem*.

2. *Exporters' Credit for Sales Tax and Selective Excise Tax on Certain Domestic Products Purchases.* We verified that during the review period those exporters eligible for benefits under export contracts were also eligible for credit for sales taxes and selective excise taxes paid for domestic purchases of certain articles such as irrigation and sprinkling system equipment. An eligible purchaser must apply to the appropriate ministry, receive approval and get credit for the amount of taxes paid. This credit may then be used on subsequent purchases.

American Flower received tax credits for domestic purchases, according to provisions of the export contract, for fiscal year 1985. The domestic purchase tax credits included credits for sales taxes on box tops and bottoms used to

export the flowers under investigation to the United States. Since these credits are equal to the amount of tax paid, they are a non-excessive exemption of prior stage indirect taxes on an item physically incorporated into the exported product, and are not countervailable under U.S. law. We excluded these credits in calculating the benefits under this program.

We determine that American Flower's credits for sales tax and selective excise tax on items other than boxes sent to the United States are countervailable as an export subsidy because the benefit is contingent upon export. To calculate the benefit from this program, we divided the value of tax credits received (excluding credits for boxes used for exports to the United States) by export sales. This results in an estimated net bounty or grant of 0.97 percent *ad valorem*.

#### B. Tax Credit Certificates (CAT)

These are government tax credit certificates (CAT) issued to eligible exporters based on the value of export sales. For sales to the United States, the face value of the certificate was 15 percent of the F.O.B. export value in fiscal year 1985.

After receiving payment for exported products and exchanging the foreign currency received at the Central Bank, an exporter may apply to the Central Bank to receive a CAT. If the Central Bank approves the application, it issues a CAT which is good for the payment of direct and indirect taxes starting one year after the date of issue. CAT expire two years after the date of issue. They are freely negotiable on the stock market from their date of issue until they expire. Since receipt of a CAT is contingent on export, we determine that the program is countervailable as an export subsidy.

American Flower sold all its CAT at a discount within a few months of their receipt. To calculate the benefits under this program, we divided the cash received by American Flower Corporation in fiscal year 1985 for its sales of CAT attributable to exports to the United States, by its export sales to the United States in the same period. We calculated the benefit as the discounted cash value received rather than the face value of the certificates. The discounted value is the net subsidy as defined by section 771(8)(B) of the Act, because deferral of receipt of the face value of the certificate was mandated by the government. On this basis, we calculated an estimated net subsidy of 12.35 percent *ad valorem*.

#### II. Programs Determined Not To Be Used

We determine that the producers or exporters of certain fresh cut flowers from Costa Rica did not use the following programs:

##### A. Accelerated Depreciation

Companies which have an export contract under the Economic Emergency Law No. 9655 (Ley para el Equilibrio Financiero del Sector Publico (February 24, 1984)), which amends the Income Tax Law, No. 837 (December 20, 1946), may use accelerated depreciation for new equipment if (1) they are approved for that benefit by the specific provisions of their export contract and (2) if they export over 50 percent of their sales (by value).

The Ministry of Finance issues a schedule for depreciation of assets which is available to any business in Costa Rica, whether or not it exports. Those with export contracts, who qualify for accelerated depreciation, can take assets which are normally depreciable according to the schedule in up to ten years and depreciate them in five years and take assets depreciable according to the schedule in more than ten years and depreciate them in ten years.

We found that the accelerated depreciation law was first made available to exporters in fiscal year 1986. We saw the income tax returns for American Flower Corporation for fiscal years 1984 and 1985 and observed that the depreciation schedules attached did not utilize accelerated depreciation.

##### B. Certificates for Increasing Exports (CIEX)

This program is intended to benefit the agricultural and agro-industrial sector of the economy by providing grants to producers who increase exports from one year to the next. Qualifying exporters must apply to the Central Bank to receive this benefit.

The program ran out of funds in 1984 (before the review period). Additional partial funding for the 1984 distribution recently was appropriated, which the Central Bank intends to pay in fiscal year 1987, based on chronological order of application in 1984, until the funds run out. American Flower is on the list of contingent beneficiaries for this distribution but received no pay-out for CIEX in the review period or the following fiscal year. Therefore, we determine the CIEX program was not used.

##### C. Loan Programs—Small Farmer Loan Program

This program provides low interest loans to farmers whose gross annual income does not exceed approximately \$15,000. We confirmed from business records that American Flower was not eligible for, and consequently did not use, this loan program.

##### D. Income Tax Exemptions for Export Earnings

Businesses making application with the appropriate government agency may have been eligible for a tax exemption for export earnings for fiscal year 1984. We examined the tax returns of American Flower Corporation for fiscal year 1984 and fiscal year 1985 and observed that they did not use this income tax exemption for export earnings.

##### E. Loan Program—Fund for Financing Exports

The FOPEX program provides loans for financing exports of non-traditional products, including cut flowers. FOPEX received its working capital primarily from the World Bank and the Bank for International Development. A small percent of total FOPEX working capital is derived from money provided by a consortium of central banks and private banks, all domiciled in Central America, and from interest received from prior loans. We verified that American Flower did not receive any loans under this program.

#### IV. Program Determined Not To Exist

##### Loan Program—Export Credit

In its response, the Government of Costa Rica stated that it operated no export credit program and granted no export credits during the review period. We specifically inquired about this during verification at the Ministry of Exports and Investments and at the FOPEX and CAT program offices of the Central Bank, which had general knowledge about export financing programs. We were told that there was no such program.

We examined the financial statements and loan records of American Flower Corporation and found no evidence of use of such a program. Therefore, we determine that an export credit program does not exist.

##### Petitioner's Comment

Petitioner argues that the information on the recapture tax was submitted too late to be considered.

**DOC Position:** We disagree. During verification, we received copies of six

import entry documents (Polizas) from American Flower. A single page was missing from one of these Polizas which had information about the amount of recapture tax paid on that importation. The government of Costa Rica subsequently submitted the omitted page. This submission, based on official Costa Rican government records, simply completed an otherwise unchanged verification exhibit. As such, we have accepted the information contained in that document for purposes of making our final determination.

#### Respondents' Comments

*Comment 1:* American Flower claims that the Department understated the tax credit on boxes exported to the United States containing the cut flowers under investigation. They argue that the amount of the subsidy resulting from these tax credits must be reduced by the full amount of the tax credit attributable to boxes exported to the United States.

*DOC Position:* We agree. We have determined that an eligible company can be exempted from 100 percent of the applicable taxes rather than 50 percent. Using verified information, we have adjusted the calculations for our final determination accordingly.

*Comment 2:* The Government of Costa Rica and American Flower request that we adjust our calculations to reflect the elimination of the specific duty and economic stabilization tax. Alternatively, they argue that we should deduct the recapture tax paid from the gross subsidy.

*DOC Position:* The specific duty, the economic stabilization tax and the recapture tax, in effect during the review period, were terminated on January 1, 1986. To calculate the fiscal year 1985 subsidy rate, we included the specific duty and economic stabilization tax exemption benefit and offset the subsidy by the amount of recapture tax payments on the exemptions received. Allowance of the recapture tax offset was made in accordance with section 771(6)(A) of the Act which allows reduction of the gross subsidy by a payment made in order to receive a subsidy.

To calculate the bonding rate when, as here, verifiable program wide changes occurred prior to the preliminary determination, we adjusted the duty deposit rate to correspond to the eventual liability. Since all three taxes were eliminated on January 1, 1986, we computed the bonding rate as it would be with these taxes set at zero.

*Comment 3:* The Government of Costa Rica and American Flower state that there was an Agrochemical Law passed in January 1986 which exempts most

agricultural sector imports from import duties. These imports include many of the products we found were subject to import tax exemptions for exporters. Since these products may be imported duty-free by a wide variety of industries in the agricultural sector, the Agrochemical Law does not provide a domestic subsidy. Consequently, they request that the benefits attributed to tax exemptions for these products not be used in computing the bonding rate.

*DOC Position:* The Department has made no determination whether the benefits of the Agrochemical Law confer a subsidy. Since this law was enacted after our review period, its use was not examined. The status of the Agrochemical Law will be examined in any administrative review of the Suspension Agreement that may be requested.

#### Comments From Other Interested Parties

*Comment 1:* The Association of Costa Rican Flower Growers (Acoflor) objects to the Department limiting its investigation to one exporter which accounted for more than 60 percent of the cut flowers exported to the United States during the review period. They contend that the flower exporters which were not questioned have a different incidence of use of programs than the company investigated, and argue that the statute requires the Department to investigate an industry, not just one company, even if that company accounts for over 60 percent of the exports.

*DOC Position:* We disagree. Nothing in the statute requires the Department to examine any particular percentage of exports or companies in a countervailing duty investigation. The purpose of an investigation is to derive an estimate of the amount of the net subsidy; more precise calculations of subsidies are done in the context of section 751 Administrative Reviews. In limiting its investigation to 60 percent of the value of exports to the United States, we have followed precedent set by other cases. See, for example, the *Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel for Malaysia*, (50 FR 9852, 9854, March 12, 1985). Moreover, Departmental flexibility to manage investigations in such a way as to effectively conserve administrative resources is consistent with the statutory scheme of the Act, which sets strict deadlines for completing investigations.

#### Verification

In accordance with section 776(a) of the Act, we verified the information

used in making our final determination. During verification, we followed standard verification procedures, including meeting with the government and company officials and tracing information in the responses to source documents including accounting ledgers, financial statements, and annual reports.

#### Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)). A public hearing was held on December 3, 1986. Written views have been received and considered in reaching this final determination.

In the event the January 5, 1987, suspension agreement is violated or no longer meets the statutory requirements of section 704(d) of the Act, the Department, in accordance with section 704(i)(1)(A) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries or withdrawals from warehouse, for consumption of certain fresh cut flowers and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This notice is published pursuant to sections 303 and 705(d) of Act (19 U.S.C. 1303, 1671d(d)).

August 17, 1987.

Lee W. Mercer,  
Acting Assistant Secretary for Trade  
Administration.

[FR Doc. 87-19485 Filed 8-24-87; 8:45 am]

BILLING CODE 3570-06-01

**EFFECTIVE DATE:** April 16, 1984.

**FOR FURTHER INFORMATION CONTACT:** Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-0187.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based upon our investigation, we determine that no benefits that constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Mexico of fresh cut flowers, as described in the "Scope of Investigation" section of this notice.

**Case History**

On September 30, 1983, we received a petition from counsel for the California Floral Council, Floral Trade Council, and Roses, Inc., filed on behalf of the United States industry producing fresh cut flowers. The petition alleges that the government of Mexico bestows bounties or grants upon the production or exportation of fresh cut flowers within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on October 20, 1983, we initiated a countervailing duty investigation (48 FR 49531). We stated that we would make our preliminary determination by December 27, 1983. On December 5, 1983, we received a request by petitioners' counsel to extend the preliminary determination for 30 days. On December 7, 1983, we extended the investigation for the requested period of time (48 FR 55492). We stated we would make our preliminary determination by January 26, 1984.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. Under this section, since certain of the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the United States International Trade Commission (ITC) is not required to determine whether, imports of dutiable merchandise cause or threaten material injury to a U.S. industry. Similarly, with respect to nondutiable merchandise, no injury determination is required by the ITC because there are no "international obligations" within the meaning of section 303(a)(2) of the Act, which require such a determination for nondutiable merchandise from Mexico.

On November 2, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On December 20, 1983, we received the response to our questionnaire from the government of Mexico.

On January 26, 1984, we issued our preliminary determination in this investigation (49 FR 4023). We preliminarily determined that no benefits constituting bounties or grants were being provided to producers or exporters in Mexico of the fresh cut flowers under investigation. We stated that one program, the Funds Established with Relationship to Agriculture (FIRA), had been used by a flower exporter, but that we needed more information before determining whether FIRA was countervailable. We preliminarily determined that the following programs, which were listed in the notice of "Initiation of Countervailing Duty Investigation" (48 FR 49531), were not being used by Mexican flower growers or exporters:

- Import duty reduction on imported machinery and equipment
  - Grants to the University of Floriculture
  - Market research and assistance to the cut flower industry by the Mexican Institute for Foreign Trade (IMCE)
  - The Fund for Industrial Development (FONEI)
  - Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)
  - National Preinvestment Fund for Studies and Projects (FONEP)
  - Preferential funding through Fondo Nacional de Fomento Industrial (FOMIN)
  - Preferential state investment incentives
  - Government financed technology development
  - Preferential vessel, freight, terminal, and insurance benefits
  - Electricity discounts or rebates through the Federal Electricity Commission
  - Fuel discounts or rebates granted under the National Industrial Development Plan (NIDP)
  - Preferential financing through the Guarantee and Development Fund for Medium and Small Industries (FOGAIN)
  - Immediate depreciation allowance
  - Preferential financing through the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)
  - Tax certificates called Certificates of Fiscal Promotion (CEPROFI)
  - Article 94 financing
- We also preliminarily determined that the Certificado de Devolucion de

**International Trade Administration**  
[C-201-016]

**Certain Fresh Cut Flowers From Mexico**

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Final negative countervailing duty determination.

**SUMMARY:** We determine that no benefits that constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Mexico of fresh cut flowers, as described in the "Scope of Investigation" section of this notice.



Impuesto (CEDI) program was suspended.

On February 20-24, 1984, we conducted a verification in Mexico of the response submitted by the Mexican government. We held a public hearing on March 8, 1984.

#### *Scope of Investigation*

The products covered by this investigation are fresh cut flowers that are currently imported under items numbers 192.1700, 192.2130, 192.2110, 192.2120, 192.1810, and 192.1890 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

This investigation covers miniature carnations, standard carnations, pompon chrysanthemums, standard chrysanthemum, sweetheart roses, and hybrid tea and intermediate roses.

The period for which we are measuring bounties or grants is January 1, 1982 to September 30, 1983. This determination we are measuring bounties or grants on the basis of benefits received by those companies that exported to the United States.

#### *Analysis of Programs*

Based upon our analysis of the petition, the response to our questionnaire, our verification, and written comments submitted by interested parties, we determine the following:

##### *I. Programs Determined Not to Confer Bounties or Grants*

We determine that bounties or grants are not being provided to producers or exporters in Mexico of fresh cut flowers under the following programs.

A. *The Funds Established with Relationship to Agriculture (FIRA)*. Petitioners allege that the cut flower industry received benefits under this program. FIRA is a series of trusts administered by the Bank of Mexico. The main objective of FIRA is to develop Mexico's agricultural sector. To meet this objective FIRA provides short- and long-term financing, loan guarantees, and technical support to firms involved in agricultural production. The Fund for Agricultural Finance (FEFA) and the Fund for Technical Assistance and Guarantee for Agriculture Credit (FEGA) are two of the principal funds which operate under FIRA. FEFA was created in August of 1965 and provides investment funding to producers. FEGA was created in December of 1972 and guarantees credits granted to low-income growers. FEGA also reimburses banks for technical services provided through the banks to growers. Two FIRA loans were outstanding during the period of

investigation to cut flower producers exporting to the United States.

FIRA does not confer an export bounty or grant because it does not operate, and is not intended, to stimulate export over domestic sales. Furthermore, it is not offered contingent upon export performance. In fact, most of FIRA's financing is given to producers who do not export. For FIRA to be a domestic bounty or grant, it must be "provided or required by government action to a specific enterprise or industry, or group of enterprises or industries" within Mexico as specified in section 771(5)(B) of the Act. In our *Final Negative Countervailing Duty Determination: Fresh Asparagus From Mexico* (48 FR 21618), we stated that the agricultural sector constitutes more than a single group of industries within the meaning of the Act. We reaffirm that decision made in *Fresh Asparagus*. Agriculture is more than a specific industry or group of industries. Producers of a wide variety of products including fruits and vegetables, livestock, grains, meat products, milk, and eggs are eligible for FIRA financing. Producers of agricultural tools may also receive financing under FIRA. FIRA loans are also provided to the fishing and the forestry industries. Approximately one-third of Mexico's labor force is employed in agriculture. The FIRA program is generally available to, and used by, wide ranging and diverse industries that constitute a substantial portion of the Mexican economy. There is no evidence that producers or exporters of cut flowers subject to this investigation are a major beneficiary of FIRA. In addition, FIRA is not targeted to any specific region in Mexico.

Accordingly, we determine that FIRA does not confer a bounty or grant on the production or exportation of Mexican fresh cut flowers, because FIRA loans are not targeted to exports, nor are they given to a "specific enterprise or industry, or group of enterprises or industries" within Mexico as specified in section 771(5)(B) of the Act.

B. *The Mexican Institute of Foreign Trade (IMCE)*. Petitioners allege that IMCE has provided assistance to the Mexican flower industry by providing it with marketing research and initiating a special project in 1980 to boost exports of flowers.

IMCE promotes the foreign trade of Mexican products and coordinates efforts to stimulate foreign trade. IMCE performs a number of functions similar to those performed by our own Foreign Commercial Service and trade offices of other countries, including organizing and directing trade fairs abroad, promoting

the visits of foreign trade missions, carrying out investigations to identify national products or services that might be in demand abroad, and providing exporters with technical assistance. These types of services are a proper and legitimate function of government, services that all governments provide.

IMCE has provided two studies on cut flowers. These studies were done in 1975 and 1980 and were not done at the request of the cut flower industry. The studies, like all IMCE studies, were made available to the public. Both Treasury and ITA have previously determined that informational services on export development and on export promotion programs provided to exporters from government agencies are not bounties or grants. (See *Certain Textiles and Textile Products from Mexico* (44 FR 41003) and *Cotton Sheeting and Sateen from Peru* (48 FR 4501)). Here, as in previous cases, only general information was provided; the provision of such information is a standard service of such agencies. IMCE provided no credits, guarantees, grants, or other forms of economic assistance to cut flower producers or exporters. Accordingly, we determine that the IMCE studies provided to the flower industry did not bestow a bounty or grant upon the production or exportation of fresh cut flowers. We also note that these studies were provided four and nine years ago, and it appears that even if countervailable, any benefit therefrom would have been expensed in the year received.

C. *Grant to the University of Floriculture*. Petitioners allege that a University of Floriculture was founded, and a grant was targeted to this institution, to provide services to the flower industry by conducting research and development on its behalf and by providing it with manpower training. There is no University of Floriculture. The State University of Morelos does offer a degree in ornamental horticulture. Since it is a public university offering degree programs in a wide variety of fields, its services are not targeted to "a specific enterprise or industry, or groups of enterprises or industries." Therefore, it is not countervailable.

##### *II. Programs Determined Not to Be Used*

We determine that the following programs have not been used by producers or exporters of cut flowers.

A. *Reimbursement of Transportation Cost*. Petitioners allege that IMCE reimbursed cut flower exporters for the transportation costs of samples flown to the U.S.

**B. Import Duty Reduction or Exemption.** Petitioners allege that the cut flower industry may receive benefits under a law published on March 25, 1983 in the *Diario Oficial de la Federacion (Diario Oficial)*. Under this law duties owed on imported machinery and equipment used in producing fresh cut flowers may be reduced by up to 100 percent of the amount due.

**C. Certificates of Fiscal Promotion (CEPROFIs).** In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP), which sets forth broad economic goals for the country. Tax credits, called CEPROFIs, are used to promote the NIDP goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities including investment credits for new machinery, others are available to all industries on equal terms.

**D. Guarantee and Development Fund for Medium and Small Industries (FOGAIN).** FOGAIN provides financing at interest rates below prevailing commercial rates to small- and medium-sized firms in Mexico.

**E. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN).** This program is aimed at developing industrial parks and cities.

**F. National Preinvestment Fund for Studies and Projects (FONEP).** The primary objective of FONEP is to assist firms to invest in economic feasibility studies.

**G. Fondo Nacional de Fomento Industrial (FOMIN).** FOMIN operates as a trust fund, providing funding to certain small- and medium-sized companies through either stock acquisition or the provision of loans at rates below those of commercial lending institutions.

**H. Preferential State Investment Incentives.** Certain Mexican states offer Mexican industries partial or total exemption from state taxes, free or low cost land, or certain local infrastructure improvements as incentives for establishing or expanding industrial facilities or incentives for exporting.

**I. Government-Financed Technology Development.** Certain Mexican industries may receive benefits under the NIDP, in the form of grants to purchase technological services at new plants.

**J. Preferential Vessel, Freight, Terminal, and Insurance Benefits.**

Industries in Mexico may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the United States.

**K. Discounts and Rebates on Energy.** Discounts on energy are given by the Mexican government to qualifying enterprises located in certain priority development regions established under the NIDP. The criteria for these price differentials available under the NIDP for energy products are contained in the Regulations Regarding Price Differentials published in the *Diario Oficial* on December 29, 1978, and June 19 and 21, 1979. Discounts and rebates on electricity are also available to qualifying industries through the Federal Electricity Commission.

**L. Fund for Industrial Development (FONEI).** FONEI is a specialized financial development fund administered by the Bank of Mexico, which grants long-term credit, on terms inconsistent with commercial considerations, for the creation, expansion or modernization of enterprises in order to foster the efficient production of industrial goods, the production of goods capable of competing in the international market, and industrial decentralization.

**M. Accelerated Depreciation.** Mexican producers or exporters may be eligible for accelerated depreciation of certain equipment.

**N. Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).** The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions that establish contracts for lines of credit with manufacturers, exporters, and importers of Mexican products.

**O. Article 94 Loans.** The Bank of Mexico has established 12 categories of industries eligible to obtain financing under section II of Article 94 of the *General Law of Credit Institutions and Auxiliary Organizations* (the Banking Law). Most categories carry their own maximum interest rate, which is set by the Bank of Mexico. Category 12, which consists of exports of manufactured products, is the only category to carry a maximum interest rate of 8 percent.

This program has been incorrectly referred to as "Encaje Legal". Encaje Legal is the reserve requirement for

lending institutions set by the Bank of Mexico under the Banking Law.

### III. Program Determined to Be Suspended

We determine that the following program has been suspended.

**A. Certificado de Devolucion de Impuesto (CEDI).** The Certificado de Devolucion de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published on August 25, 1982, in the *Diario Oficial*. The order abrogates of prior executive orders that contained the list of products eligible to receive CEDI certificates. Suspension of eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial*.

### Comments

Petitioners' comments are as follows:

#### Comment 1

Petitioners state that the Department of Commerce should discontinue its use of national average interest rates (i.e., CPP plus 10 for Mexico) as the benchmark for short-term loans, and should, consistent with its practice with regard to long-term loans, use company-specific rates.

#### DOC Position

This use is irrelevant to our determination in this investigation, because no short-term loans from any government-administered program were given to any flower producers.

#### Comment 2

Petitioners further state that, when calculating company-specific benchmark interest rates (rather than national average interest rates), compensating balances and other charges should be considered, because these are necessary to determine a company's whole cost of financing. Rather than using a nominal commercial interest benchmark, Commerce should use the actual cost of alternative financing should be used to measure the value of benefits. Petitioners state that Commerce failed

to verify the proper benchmark for comparison to the FIRA loans and recommend using a benchmark of 119 percent as best information available.

#### DOC Position

We have determined that FIRA loans are not countervailable. Therefore, we did not need a commercial benchmark. Yet, we note that our verification report includes a verified benchmark for the FIRA loan.

#### Comment 3

Petitioners state that the provision of marketing studies by IMCE constitutes the "assumption of . . . costs or expenses of manufacture, production, or distribution" under section 771(5)(B)(iv) of the Act, and therefore is countervailable. Petitioners state that it is irrelevant that the flower growers received studies, rather than a grant or funds to make the studies, and also irrelevant, if true, that flower growers made no use of the studies.

#### DOC Position

We have determined that these marketing studies are not countervailable. The studies were done by IMCE as part of their normal government function. The studies had not been contracted for by the flower industry, and were not made at the request of the flower industry. The studies were also available to the public. In *Certain Softwood Lumber from Canada* (48 FR 24167), we defined the limits of section 771(5)(B)(iv) to make it clear that "assumption" refers only to government activity which relieves an enterprise or industry of a pre-existing statutory or contractual obligation. The provision of studies by IMCE does not meet this criterion.

#### Comment 4

Petitioners state that Commerce should allocate the benefits of the 1975 and 1980 IMCE studies over the useful life of the studies.

#### DOC Position

Since the studies do not confer a bounty or grant to cut flower producers or growers, there are no benefits to allocate.

#### Comment 5

Petitioners state that any benefits from FIRA received by flower growers are countervailable, as they cannot be considered "generally available." Benefits provided to a large number of industries are "widely provided" but still countervailable; it does not matter how many other industries are provided with the same benefit. Petitioners state

that the law presumes that if an industry has been provided with certain benefits, that industry has received countervailable subsidies, and the extent to which other industries are also provided with benefits is irrelevant.

#### DOC Position

We have consistently rejected such arguments as follows: "Section 771(5) of the Act, in describing government benefits which should be viewed as domestic subsidies under the law, clearly limits such benefits to those provided 'to a specific enterprise or industry, or group of enterprises or industries.' We have followed this statutory standard consistently, finding countervailable only the benefits from those programs which are applicable and available only to one company or industry, a limited group of companies or industries, or companies or industries located within a limited region or regions within a country. This standard for domestic subsidies is clearly distinguishable from that for export subsidies, which are countervailable regardless of their availability within the country of exportation. We view the word 'specific' in the statutory definition as necessarily modifying both 'enterprise or industry' and 'group of enterprises or industries.' If Congress had intended programs of general applicability to be countervailable, this language would be superfluous and different language easily could and would have been used. . . . Never in the history of the administration of this law or section 303 of the Act has a generally available program providing benefits to all production of a product, regardless whether it is exported, been considered to give rise to a subsidy or a bounty or grant. In enacting the Trade Agreements Act of 1979, Congress specifically endorsed that interpretation of section 303. Finally, the fact that the list of subsidies in section 771(5) is not an exclusive one in no way compels the conclusion that domestic benefits of general availability must or can be considered subsidies or bounties or grants. Indeed, in view of the statute and its legislative and administrative history, we doubt that we are free to treat such generally available benefits of domestic programs as bounties or grants; certainly we are not compelled to do so." *Certain Steel Products from Belgium*, Appendix 4 (47 FR 39304, 39328); see also *Carbon Steel Wire Rod from Belgium*, Appendix 4 (47 FR 42403); *P.C. Strand from France*, Appendix 4 (47 FR 47031).

#### Comment 6

Petitioners state that this case was brought under section 303 and not Title VII of the Act. Therefore, the language of section 303, not 771(5)(B), provides the standards for determining whether benefits confer a bounty or grant.

#### DOC Position

The language of the Act (see particularly section 103(b)) and the legislative history of the Act make it clear that the term "subsidy" under Title VII has the same meaning as "bounty or grant" under section 303. In cases brought under section 303, we have consistently used the language in 771(5)(B) to determine whether domestic bounties or grants are countervailable. The Court of International Trade has upheld this application of the "generally available" standard to section 303. (See *Carlisle Tire and Rubber Co. v. United States* (U.S. Court of International Trade, Slip Op. 83-49, May 18, 1983)).

#### Comment 7

Petitioners assert that the Ornamental Horticulture Section of FIRA provided significant amounts of credit to the producers under investigation.

#### DOC Position

We verified that only two producers exporting the subject merchandise had loans outstanding during the period of investigation. Moreover, the amount of credit provided to flower producers is not an issue since FIRA is not countervailable.

#### Comment 8

Petitioners maintain that the extent to which other industries have been provided with benefits is irrelevant in determining whether such benefits are countervailable. In support, they note that the administering authority has in two investigations found the EC "Common Agricultural Policy" (CAP) minimum price program to be countervailable. See *Tomato Products from the European Community* (44 FR 15825) and *Dextrines and Soluble or Chemically Treated Starches Derived from Corn Starch from the European Community* (45 FR 18414). Petitioners state that they see no rational distinction between CAP and FIRA to support determinations in those cases that the CAP programs were countervailable, and the position that benefits under FIRA are not countervailable.

#### DOC Position

While the CAP includes numerous programs available for many different

agricultural products, the issue of the general availability of the CAP does not arise in the cited EC cases. CAP production refund payments are made available in specific amounts to processors of selected fruits and vegetables in order to ensure that prices for particular processed products remain competitive in the world marketplace. Processors of particular fruits and vegetables are eligible to receive production aids in amounts established yearly for each particular product to be processed. The production refund payments countervailed in the two cited EC cases are distinguishable from FIRA loans because the production aids for corn and tomatoes were targeted for those specific products, in specific amounts, and were thus countervailable under 771(5)(B). The amount of the subsidy we countervailed in *Tomato Products from the EC* was the amount of production aid set out in an annual EC regulation to eligible processors of tomato products. Similarly, in the *Dextrines* case, the EC published yearly specific amounts for production refund payments to processors who purchased corn at the support prices. In contrast to this product specificity, FIRA loans may be granted to anyone engaged in agricultural production, regardless of product or production level or stage. We believe that benefits freely available to all agricultural producers are by definition not limited in availability to an industry or enterprise, or group of industries or enterprises, as provided for in section 771(5)(B) of the Act.

Respondent's comments are as follows:

#### *Comment 1*

The Asociacion Nacional de Productores Y Exportadores Ornamentales de Mexico, A.C., states that FIRA is not countervailable because it is generally available to all agricultural producers, and agriculture is more than one industry or one group of industries under section 771(5)(B). Agriculture constitutes one of the three or four major portions of the Mexican economy. Moreover, of the total amount of FIRA loans granted in 1982, loans to the ornamental horticulture industry represent a *de minimis* figure. Further, a FIRA loan measured by any of three benchmarks standards (comparable loans received from private sources by the same company, comparable commercial loans to other companies in the industry, or national average commercial loan rate for long-term loans) shows that the loan was not a bounty or grant under the countervailing duty law.

#### *DOC Position*

We agree that FIRA is not countervailable for the reasons set forth in this notice. In addition, it appears that even if we had determined that FIRA benefits were countervailable, the loans to the flower producers would confer a *de minimis* benefit.

#### *Verification*

In accordance with section 776(a) of the Act, we verified information used in reaching our final determination. During this verification we followed normal procedures, including meetings and inspection of documents with government officials and on-site inspection of records and operations of companies exporting merchandise under investigation to the United States.

#### *Administrative Procedures*

We afforded interested parties an opportunity to present oral views in accordance with our regulations (19 CFR 355.35). A public hearing was held on March 8, 1984. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have also been received and considered. We hereby conclude our investigation regarding this case.

This notice is published pursuant to sections 303 and 705(d) of the act (19 U.S.C. 1303, 1671(d)).

Dated: April 10, 1984.

William T. Archey,  
Acting Assistant Secretary for Trade  
Administration.

[FR Doc. 84-10114 Filed 4-12-84; 8:45 am]  
BILLING CODE 3510-05-01

[C-337-601]

**Final Affirmative Countervailing Duty Determination; Standard Carnations From Chile****AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Chile of standard carnations as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 2.25 percent *ad valorem*. However, consistent with our stated policy of taking into account changes in programs that occur before our preliminary determination, we are adjusting the duty deposit rate to 12.25 percent *ad valorem* to reflect the commencement of the Simplified Drawback Program. We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of standard carnations from Chile, commencing on the date of publication of this notice in the *Federal Register*, that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on entries of these products in the amount equal to the duty deposit rate.

**EFFECTIVE DATE:** February 3, 1987.

**FOR FURTHER INFORMATION CONTACT:** Loc Nguyen, Jessica Wasserman or Gray Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; Telephone (202) 377-0167, 377-1442, or 377-0161.

**SUPPLEMENTARY INFORMATION:****Final Determination**

Based upon our investigation, we determine that there is reason to believe or suspect that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Chile of standard carnations. For purposes of this investigation, the following programs are found to confer subsidies.

- Stamp and Seal Tax Exemption for Exporters
- Export Rebate (Simplified Drawback)

We determine the estimated net subsidy to be 2.5 percent *ad valorem*,

and the duty deposit rate to be 12.25 percent *ad valorem*.

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing standard carnations. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Chile of standard carnations receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21953, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Chile is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Chile materially injure, or threaten material injury to, a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Chile of standard carnations (51 FR 25751, July 6, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Chile in Washington, DC, concerning petitioner's allegations. We received the government and company responses on July 25, 1986, September 15, 1986, and September 26, 1986, from the Government of Chile, Coexflor Ltd., and Agrícola Longotoma. Coexflor Ltd. is the exporter for Sociedad Agrícola Flores Pochobay Ltda., Andres Ramirez Matte, Sociedad Agrícola Los Molles Ltda., Juan Alberto Decombe, Sociedad Agrícola Millary, Ltda., and Alberto Behn T., producers of standard carnations. Agrícola Longotoma is both a producer and an exporter of standard carnations. We received responses from both the exporters and the producers of standard carnations.

On November 4, 1986, petitioner filed a request to extend the deadline date for a final determination in the countervailing duty investigation to correspond to the date of the final determination in the antidumping investigation, pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573). The Department granted an extension of the deadline for the final determination in this countervailing duty investigation to January 12, 1987, the original deadline for the final determination in the antidumping investigation.

On December 22, 1986, respondents requested that the Department postpone the final determination in the antidumping duty investigation on standard carnations in accordance with section 735(a)(2)(A) of the Act. We granted this request and postponed our final antidumping duty determination until not later than January 26, 1987. Pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determination on standard carnations from Chile was also postponed until January 26, 1987, to coincide with the revised date of the final antidumping duty determination (52 FR 1515, January 14, 1987).

#### Scope of Investigation

The products covered by this investigation are standard carnations currently provided for in item 192.21 of the *Tariff Schedules of the United States* (TSUS).

For purposes of this determination, the period for which we are measuring subsidies (the review period) is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaire, our verification, and comments submitted by petitioner we determine the following:

#### I. Programs Determined To Confer a Subsidy

We determine that subsidies are being provided to producers or exporters in Chile of standard carnations under the following programs:

##### A. Stamp and Seal Tax Exemption for Exporters (SST)

The SST is a tax that affects all credit operations in Chile. Bills of exchange, promissory notes, letters of credit and any other document containing a loan or any other money credit transaction are subject to the SST. This tax amounts to 0.2 percent of the par value of the document per month, for a maximum limit of twelve months or 2.4 percent. As

of October 29, 1985, the Government of Chile began exempting export credit operations from the SST. Neither the Government of Chile nor the respondent companies gave us clear explanations as to what is meant by "export credit operations." Nor did we find any indication that the exporters paid the SST in any export credit operations. Therefore, based on best information available, we assume that companies which export are exempted from paying the stamp and seal tax on all export credit operations.

Because the exemption appears to be available only to companies which export, we determine that this exemption constitutes an export subsidy. To calculate the benefit during the review period, we used the best information available, since the companies did not give us specific information on each loan obtained in 1985; nor did they give us any information on loans for 1986. Therefore, for Agrícola Longotoma, one of the two exporters, we first multiplied total principal outstanding as of December 31, 1985, by the ratio of export earnings to total earnings for 1985; we then multiplied the result by 0.4 percent, in order to determine the benefit conferred by the exemption granted for the last two months of 1985. For the second exporter, Coexflor (which exports 100 percent of its sales), we multiplied the outstanding balance of its 120-day credit line as of December 31, 1985, by 0.4 percent as well. Because this program started only during the last two months of the review period and, therefore, could only benefit export sales made after the start of the program, we allocated the total subsidy received by both companies in 1985 over the proportion of total exports during the review period to which this subsidy is attributable. This resulted in an estimated net subsidy of 2.25 percent *ad valorem*.

##### B. Export Rebate (Simplified Drawback)

Law 14,480 of December 1985 allows a 10 percent simplified drawback on the F.O.B. value of exports to those companies whose exports averaged US\$2.5 million or less in 1983 and 1984 and whose annual exports have not exceeded US\$7.5 million after 1984.

According to the Government of Chile's response, this drawback is a rebate of import duties and other indirect taxes on inputs physically incorporated in an exported product. However, the Government of Chile has provided no evidence that eligibility for the rebate is linked to import duties or indirect taxes paid on such inputs, as required in our determination in *Certain*

#### *Apparel from Thailand: Final Affirmative Countervailing Duty Determination and Countervailing Order* (50 FR 9818, March 12, 1985).

Lacking any evidence that the Government of Chile attempted to base the export rebate on an accurate model of indirect taxes and import duties or physically incorporated inputs, as best information available, we determine that this rebate is countervailable in its entirety.

We verified that this law went into effect in 1986 and that the companies under investigation did not receive any benefits under this program during the review period. However, to the best of our knowledge, the companies did receive benefits in 1986. Therefore, we are adjusting the duty deposit rate to reflect the 10 percent *ad valorem* subsidy granted under this program.

#### II. Programs Determined Not To Confer a Subsidy

We determine that subsidies are not provided to producers or exporters in Chile of standard carnations under the following program:

##### Value Added Tax (VAT) Rebate

Under the VAT system in Chile, a duty or sales tax of 20 percent is paid at each stage of production. Each time a transaction takes place, the purchaser pays, and the seller collects, the tax on behalf of the government. However, no VAT is collected when an export sale is made. Once a month companies must total their payments and collections of VAT and settle their account with the Chilean tax authorities.

Producers for the domestic market usually owe the government because they collect more tax on the sales of their products than they have paid on inputs. Exporters, on the other hand, will always be in a credit situation vis-a-vis the government with respect to their export sales. In order to neutralize this disadvantage, the government provides that exporters may receive a rebate of a percentage of the total VAT paid by the exporter. This percentage is based on the amount export sales represent of total sales. At the end of each month, exporters, like all other companies, must reconcile payments and collections with the government and refund to the government the collections that exceed payments.

We found no evidence that this rebate constitutes an excessive remission of indirect taxes and, hence, it does not constitute a subsidy.

### III. Programs Determined Not To Be Used

We determine that producers or exporters in Chile of standard carnations did not use the following programs:

#### A. Preferential Export Credit

Petitioner alleges that exporters of standard carnations in Chile may benefit from export credits provided at preferential rates by the Government of Chile.

According to the Government of Chile, the lines of pre- and post-shipment credit available to exporters are regulated by Chapter X of the Compendium of Export Rules of the Central Bank of Chile and the rates of interest applicable to these lines of credit are market rates.

We found no evidence at verification that any of the companies under investigation received loans on terms inconsistent with commercial considerations. Therefore, we determine that the companies under investigation did not benefit from preferential export credit.

#### B. Corporacion de Fomento (CORFO) Loans and Debt Rescheduling

Petitioner alleges that producers and exporters of standard carnations in Chile may benefit from subsidized loans and subsidized debt rescheduling provided by the Chilean Development Bank (CORFO) to agriculture. We verified that the companies under investigation did not have loans received under this program outstanding during the review period.

#### C. Preferential Exchange Rate for Repayment of Foreign Debt

Petitioner alleges that producers and exporters of standard carnations in Chile may benefit from a preferential exchange rate available for repayment of foreign debt incurred before August 6, 1982.

We verified that a preferential foreign exchange rate was established during August 1982 in view of the deregulation of the national currency which adversely affected those with foreign currency debts. To be eligible for the preferential exchange rate, the debt had to be incurred prior to 1982. We verified that the companies under investigation did not benefit from this program.

#### D. Deferred Import Duties for Capital Goods

Petitioner alleges that producers and exporters of standard carnations in Chile may benefit from a deferral or exemption of import duties on capital goods used in the agricultural industry.

According to the Government of Chile, machinery for agriculture is excluded from the benefits of Decree Law 1,226 providing for the deferred payment of import duties. We verified that the companies under investigation have not received benefits from this program.

#### E. Tax Rebate on Fixed Assets

As of October 29, 1985, the Government of Chile provides a VAT rebate on fixed assets six months after the assets have been purchased. We verified that the companies under investigation have not received rebates under this program.

#### F. Currency Retention Scheme

The Government of Chile requires almost all exporters to repatriate foreign exchange earnings from exports within 90 days of shipment. Under certain circumstances, the exporter is allowed a waiver of the 90-day rule. We verified that all exporters under investigation repatriated their foreign exchange within the 90-day period.

#### G. Export Credit Limits

Under Law No. 18439, the Government of Chile has increased the level of authorized bank lending for exports beyond that which is available to producers which sell domestically. At verification, we found no indication that the exporters under investigation received more loans than domestic sellers.

#### Petitioner's Comments

*Comment 1:* Petitioner argues that Agricola Longotoma, Ltd., benefitted from a preferential exchange rate on repayment of a loan taken out on December 31, 1985. Petitioner contends that this loan was a loan under Agreement 1466, which was one of the vehicles used to implement the program providing a preferential rate for the repayment of foreign debt.

*DOC Position:* Under this program, a preferential exchange rate is available only for loans taken out prior to August 1982. Therefore, the loan petitioner refers to is not eligible for the preferential exchange rate.

*Comment 2:* Petitioner argues that the loans of Agricola Longotoma, Ltd., and Alberto Behn were rescheduled at preferential rates. Petitioner argues that, to the extent information on rescheduling was not obtained at verification, the agency should reject the questionnaire responses of the Chilean producers and use best information otherwise available for purposes of the final determination.

*DOC Position:* We found no evidence at verification that any of the companies

under investigation received loans from government sources, nor did we find any evidence that commercial loans were rescheduled on terms inconsistent with commercial considerations.

*Comment 3:* Petitioner argues that the provision in the VAT rebate program which allows exporters to recover VAT prior to actually exporting their goods provides a benefit to the recipients (equal to the time value of money). Petitioner argues that the benefit should be calculated according to the following paragraph of Article 1 of Decree 34,011 of the General Controllership of the Republic:

If the exporter does not effect the respective export operation, he should retribute the values returned within the month following the one in which he realizes the export would not take place, the values should be adjusted in the same percentage the Consumer Price Index variation was established for the month prior to the reception of the values and the month prior to actual restitution. The adjusted value will be charged one percent monthly interest.

*DOC Position:* We disagree. During verification, we noted that, in the normal course of trade, it is usually the producer selling his goods domestically who actually recoups his "Purchases VAT" (the VAT he pays when purchasing an item) earlier than the exporter. As explained *supra*, the domestic seller starts recovering his "purchases VAT" the minute he sells his products through the acquisition of "sales VAT" (the VAT he collects when making a domestic sale). In fact, we found in many cases that domestic sellers receive more "sales VAT" per month than "purchases VAT", thus giving them extra funds which they do not have to return to the government until the end of the month when they reconcile their VAT payments and collections with the Chilean government. The exporter, on the other hand, receives no "sales VAT" for his foreign sales; therefore, if he had to wait until after his goods were exported to file for VAT rebates, he would always be at a disadvantage vis-a-vis a seller in the domestic market. The provision allowing exporters to recover "purchases VAT" prior to actually exporting their products merely entitles the exporter to treatment similar to the domestic seller. Therefore, we do not consider that this program provides a countervailable subsidy.

*Comment 4:* Petitioner contends that from the face of the questionnaire responses, it is clear that in 1986 companies will receive benefits under the Simplified Drawback program. Petitioner argues that, since efforts to

verify this program were met with much resistance, the ITA should issue an affirmative final determination finding this program countervailable with a net benefit of 10 percent *ad valorem*. This would be consistent with the mandate of the law and with prior agency practice regarding program-wide changes.

**DOC Position:** We agree that a new subsidy program went into effect after the review period. This program went into effect prior to our preliminary determination and, to the best of our knowledge, some of the respondents did receive benefits in 1986 under this program. This program thus benefits the merchandise that is subject to suspension of liquidation. Therefore, we are issuing an affirmative final determination with a duty deposit rate which reflects the best information available on the subsidy provided under this new program.

**Comment 5:** Petitioner argues that the verification report on one company indicates that its credit operations were not subject to the stamp and seal tax charge. Therefore, the ITA must find that a benefit has been received.

**DOC Position:** We agree. Based on best information available, we have determined that benefits have been received by exporters under this program. See Section I.A. of this notice.

#### Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including tracing the information in the responses to source documents, accounting ledgers, financial statements and annual reports.

#### Suspension of Liquidation

In accordance with section 705(c)(B) of the Act, we have instructed the U.S. Customs Service to suspend liquidation of all entries of standard carnations from Chile which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this determination in the Federal Register and to require a cash deposit or bond for each such entry in the amount of 12.25 percent *ad valorem*. This suspension will remain in effect until further notice.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this

investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 75 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

If, however, the ITC determines that injury does exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on standard carnations from Chile entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation as indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 167d(d)).

Lee W. Mercer,

Acting Assistant Secretary for Trade Administration.

January 27, 1987.

(FR Doc. 87-2129 Filed 2-2-87; 8:45 am)

BILLING CODE 3510-05-M



(C-333-601)

**Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From Peru**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Peru of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 15.56 percent *ad valorem*.

We have notified the U.S. International Trade Commission (the ITC) of our determination. If the ITC's final injury determination is affirmative, we will direct the U.S. Customs Service to reinstate the suspension of liquidation of all entries of cut flowers from Peru that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the countervailing duty order, and to require a cash deposit on entries of these products in the amount equal to the estimated net bounty or grant as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** March 5, 1987.

**FOR FURTHER INFORMATION CONTACT:** Karen Busier or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-8371 or 377-0161.

**SUPPLEMENTARY INFORMATION:****Final Determination**

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Peru of cut flowers. For purposes of this investigation, the following program is found to confer bounties or grants:

- The Certificate of Tax Rebate (CERTEX)

We determine the estimated net bounty or grant to be 15.5 percent *ad valorem*.

**Case History**

On May 21, 1986, we received a petition in proper form filed by the Floral Trade Council on behalf of the

U.S. industry producing cut flowers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Peru of cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21959, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. However, because Peru is a signatory to the General Agreement on Tariffs and Trade and the cut flowers subject to this investigation are duty-free, the petitioner is required to allege that, and the ITC is required to determine whether, imports of the subject merchandise from Peru materially injure, or threaten material injury to, a U.S. industry.

On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Peru of the subject merchandise (51 FR 25751, July 16, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Peru in Washington, DC, concerning petitioner's allegations. On August 5, 1986, we received a request to extend the submission deadline for the government portion of the questionnaire response until September 2, 1986. We granted this extension on August 12, 1986. We received the response of Flores Esmeralda, S.R.L., on August 7, 1986, and we received the response of the Government of Peru on September 2, 1986. On October 15, 1986, we sent a deficiency letter to Flores Esmeralda, S.R.L., requesting U.S. f.o.b. sales values. We received the response to our deficiency letter on October 16, 1986.

On October 20, 1986, we issued our preliminary determination in this investigation (51 FR 37948, October 27, 1986). We preliminarily determined that

benefits constituting bounties or grants within the meaning of the Act are being provided to producers or exporters in Peru of the subject merchandise. From November 3 through November 7, 1986, we conducted verification in Peru.

On November 4, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573), provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination in the antidumping investigation" (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, the Department granted an extension of the deadline for the final determination in the countervailing duty investigation of certain fresh cut flowers from Peru to January 12, 1987, the original deadline for the final determination in the antidumping investigation (51 FR 46906, December 29, 1986).

On November 12, 1986, respondents in the antidumping duty investigation of certain fresh cut flowers from Peru requested that the Department postpone the final determination for 30 days in accordance with section 735(a)(2) of the Act. We granted this request and postponed our final antidumping duty determination until February 17, 1987. Pursuant to section 705(a)(1) of the Tariff Act of 1930 as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determination on certain fresh cut flowers from Peru was also postponed until February 17, 1987, to coincide with the revised date on the final antidumping duty determination (51 FR 46906, December 29, 1986).

On January 30, 1987, we received a second request from respondents to postpone the deadline for the final antidumping and countervailing duty determinations an additional ten days until February 27, 1987, and we granted this request on February 10, 1987 (52 FR 4794, February 17, 1987).

### Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and pompon chrysanthemums and gypsophila, currently provided for in item 192.21 of the TSUS.

### Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For purposes of this determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments filed by petitioner and respondents, we determine the following:

#### I. Program Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to producers or exporters in Peru of cut flowers under the following program:

##### A The Certificate of Tax Rebate (CERTEX)

Under Legislative Decree 291, Supreme Decree 385-84-EFC, and Supreme Decree 387-84-EFC, a Peruvian company exporting non-traditional products may apply for CERTEX certificates issued by the government in amounts equal to a percentage of the f.o.b. invoice price of export shipments. The applicable CERTEX rate is determined according to the type of product exported, the production location, and whether it is classified as a handicraft. Additional CERTEX may be granted for exceptional problems affecting the economy of Peru and for economic decentralization.

Once the gross amount of CERTEX is determined, two percent of the amount is deducted and issued to the Fund for the Provision of Nontraditional Exports (FOPEX), and ten percent is deducted and issued to the Provisional Municipal Town Council of the municipality from which the product originated.

We verified that during the review period, the gross CERTEX rate for cut flowers equalled 33 percent, and that Flores Esmeralda's net CERTEX rate

equalled 29.04 percent. During the review period, the value of the certificates was expressed in soles as determined by the official exchange rate on the day of shipment. CERTEX certificates may be applied against taxes owed the Government of Peru, or they may be negotiated as commercial paper. We also certified that Flores Esmeralda redeemed all CERTEX received for cash.

Because CERTEX is specifically export-oriented, with benefits determined solely on the basis of export performance, we determine this program to confer a countervailable benefit on producers or exporters of cut flowers in Peru.

The amount of CERTEX a company receives is based on the Peruvian declared f.o.b. value of export shipments. However, because Peruvian cut flowers are sold on consignment in the United States at U.S. market prices, the U.S. wholesale sales prices may differ from the Peruvian declared values. Therefore, to calculate the benefit received by Flores Esmeralda under this program, we first multiplied the verified Peruvian declared value of exports of the subject merchandise to the United States during the review period by 29.04 percent, to arrive at the amount of CERTEX granted on these shipments. To determine the *ad valorem* benefit conferred by this program on exporters in Peru of cut flowers, we divided the calculated CERTEX amount by the U.S. consignment sales values of the subject merchandise. These U.S. consignment sales values were verified during the antidumping duty investigation on cut flowers from Peru and incorporated for calculation purposes in this investigation. The estimated net bounty or grant equals 15.56 percent *ad valorem*.

During part of the review period, Flores Esmeralda received an additional one percent CERTEX for economic decentralization. This additional CERTEX was later reviewed by the Government of Peru, which issued a resolution declaring the company ineligible to receive it. We verified that Flores Esmeralda is no longer eligible to receive this additional CERTEX, and that the company repaid the amount received under this one percent provision in full on October 9, 1986. Therefore, we determine that the company did not finally receive this benefit during the review period and have not included this additional amount in our calculations.

### II. Programs Determined Not To Be Countervailable

We determine that the following programs are not countervailable:

#### A. Specific Commodity Freight Rates

During verification, we found that producers and exporters of cut flowers in Peru pay specific commodity freight rates, not general cargo rates, on international shipments of the subject merchandise. A special committee of the Ministry of Transport sets these minimum rates to reflect the economic and cost elements involved in shipping specific commodities, which results in rates lower than the general cargo rates. The commodity rates are published in the International Air Transport Association (IATA) rate manual and apply to all international airlines flying cargo from Peru. Commodity-specific rates are a usual practice followed by many countries throughout the world. Because we found no evidence of transfer of funds or absorption of costs on behalf of flower growers through these rates nor any evidence of government subsidization, and because we verified that Flores Esmeralda paid the published rates on shipments of the subject merchandise to the United States, we determine that these specific commodity freight rates are not countervailable.

#### B. Articles 55 and 60 of Decree Law No. 2

Under Article 55 of Decree Law No. 2 (the Income Tax Law), an agricultural entity may reinvest up to 10 percent of its profits tax free for a period of three to five years. Under Article 60, persons engaged in agricultural activities may receive reductions in taxes on company net worth, revaluations, remunerations on personal services, sales taxes on conveyances of real estate and real estate surcharges, and reductions in income tax. During verification, we found that Peter Ullrich Hundhausen claimed tax credits under Articles 55 and 60 of Decree Law No. 2 on the income tax return filed during the review period. We verified that these tax credits are available to and used by the entire agricultural sector. Therefore, we determine that these programs are not limited to a specific enterprise or industry, or group of enterprises or industries, and, thus, are not countervailable.

#### C. Duty-Free Import of Agricultural Equipment not Produced in Peru

During verification, we found that Peter Ullrich Hundhausen imported several agricultural items duty-free. We

verified that under Decree Law No. 301 and Supreme Decree No. 102, those engaged in agricultural activities may import agricultural equipment, tools, and machinery free of import duties and taxes, if there is no comparable product produced in Peru. Since this program is available to and used by the entire agricultural sector, we determine that it is not countervailable.

#### D. Duty-Free Import of Cardboard Flower Boxes for Reexport as Packing Materials

During verification, we found that Flores Esmeralda temporarily imported cardboard flower boxes for reexport to the United States as packing materials. During the U.S. consignment sales value verification conducted as part of the Department's antidumping investigation on cut flowers from Peru, we verified that the U.S. consignment sales price included a box charge. We determine that these cardboard boxes are deemed physically incorporated items. Consistent with the Department's policy and the GATT Subsidies Code, we determine that the duty-free import of these items physically incorporated into the exported product is not countervailable.

#### III. Programs Determined Not To Be Used

We determine that the producers or exporters in Peru of cut flowers did not use the following programs:

##### A. Non-Traditional Export Fund (FENT)

Under the FENT program, Peruvian exporters may receive pre-export financing of up to 90 percent of a shipment's U.S. dollar f.o.b. value. The interest rates on FENT loans are based on LIBOR and these loans are granted for 90 to 180 days. Although FENT loans are expressed in dollars, they are granted to exporters in soles/intis. Since neither Flores Esmeralda nor Peter Ullrich Hundhausen received FENT financing during the review period, we determine that this program was not used.

##### B. Articles 12, 13, 14, 16, 23, 24, and 31 of the Law for the Promotion of Export of Non-Traditional Goods (Export Law)

Articles 12, 13, 14, 16, 23, and 24 of the export law offer incentives to promote the export of non-traditional industrial products by registered non-traditional exporting industrial companies. We verified that neither Flores Esmeralda nor Peter Ullrich Hundhausen are registered non-traditional exporting industrial companies and that neither received any benefits under these Articles during the review period.

##### C. Agro-Industrial Rediscount Fund (FRAI)

FRAI provides financing to (1) agro-industrial companies involved in the processing of raw materials, such as fruit juices and preserves; (2) companies which provide services to the agricultural sector, such as farm equipment and fertilizer; and (3) companies which provide support services to the agricultural sector, such as storage facilities and transportation. Loans provided by FRAI are for a maximum term of five years, with an 18-month to two-year grace period for principal and interest payments, which are due at the end of the quarter. We verified that neither Flores Esmeralda nor Peter Ullrich Hundhausen received financing under this program during the review period.

##### D. Employment Benefits for Decentralized Companies

Industrial and health enterprises and fisheries may claim income tax exemptions under Article 8 of Decree Law 22838. We verified that neither Flores Esmeralda nor Peter Ullrich Hundhausen claimed any tax exemptions under this program during the review period.

##### E. Regional Incentives

The 1982 Industrial Law provided tax incentives for investments made outside the Lima and callao areas. We verified that neither Flores Esmeralda nor Peter Ullrich Hundhausen claimed any tax credits under this program during the review period.

#### Petitioner's Comments

*Comment 1:* Petitioner argues that the Government of Peru has set specific commodity freight rates for flower exports that are substantially lower than general cargo rates, and are therefore, countervailable.

*DOC Response:* We disagree. See our discussion of commodity freight rates in section II.A. above.

*Comment 2:* Petitioner argues that the department should countervail benefits received by Peter Ullrich Hundhausen under Articles 55 and 60 of Decree Law No. 2, which were discovered during verification.

*DOC Response:* We disagree. See our discussion of Articles 55 and 60 in section II.B. above.

*Comment 3:* Petitioner argues that Article 55 reinvestment plans must be approved at two review levels, and that the department has previously indicated that where the foreign government exercises substantial discretion, the benefit, even though nominally

"generally available," is nevertheless countervailable.

*DOC Response:* We disagree. Despite the two levels of review, the reviewing Peruvian authorities do not exercise substantial discretion. We found during verification that Article 55 reinvestment plans are, in fact, granted to all types of agricultural enterprises and are not limited to a specific enterprise or industry, or group of enterprises or industries.

*Comment 4:* Petitioner argues that the Department should not use data pertaining to the first quarter of 1986 when calculating the benefit derived from the CERTEX program, since no program-wide change occurred. The Department should not consider data outside the period of investigation, despite the fact that more recent data are available.

*DOC Response:* We agree. See the Department's response to respondents' Comment 1 below.

*Comment 5:* Petitioner argues that the Department should countervail the additional one percent CERTEX Flores Esmeralda received during a portion of the review period, even though this additional amount was subject to refund. If this amount is not found countervailable, the Department must take into consideration the time value of money, when calculating the benefit received under CERTEX.

*DOC Response:* Since Flores Esmeralda was found ineligible to receive, and was required to refund, this additional one percent CERTEX subsequent to the period of investigation, we determined that the principal amount of the one percent CERTEX was not finally granted and, therefore, not countervailable. Under the Department's short-term methodology, the benefit from this free use of funds was not realized by Flores Esmeralda until its repayment in October 1986, subsequent to the period of investigation. Therefore, we did not include this benefit in our calculation.

#### Respondents' Comments

*Comment 1:* Respondents argue that because Flores Esmeralda has consented to the inclusion and usage of verified U.S. sales data from the Department's antidumping duty investigation which contain data for the first quarter of 1986, the Department should include that data in its countervailing duty calculations in order to reflect more recent information and establish a more accurate deposit rate.

*DOC Response:* We disagree. We adopted the data verified in the parallel antidumping duty investigation to reflect

U.S. consignment sales made during the period of investigation applicable to the countervailing duty case. While the estimated duty deposit rate must be as accurate as possible, it must be based on data for the appropriate period of investigation. The mere availability of more recent information does not warrant its inclusion in our calculations.

**Comments 2:** Respondents argue that petitioner's contention that air freight rates for certain fresh cut flowers may constitute a "potentially countervailable subsidy" is completely without merit. The Peruvian practice of establishing general and commodity air freight rates, which are then published in the International Air Transport Association (IATA) manual, is consistent with international practices among virtually all countries. These specific commodity rates are not preferential, subsidized, or intended as an export incentive; they simply reflect the economic and cost elements involved in shipping different commodities which have different densities, handling requirements, and other cost factors.

**DOC Response:** We agree. See our discussion of specific commodity freight rates in Section II.A. above.

#### Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed normal verification procedures, including meeting with government officials and inspection of documents, as well as on-site inspection of the company producing and exporting the merchandise under investigation to the United States.

#### Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)). Although the parties did not request a hearing, we received written views from interested parties and have taken them into consideration in reaching this final determination.

#### Suspension of Liquidation

In accordance with the preliminary countervailing duty determination published on October 27, 1986, we directed the U.S. Customs Service to suspend liquidation on the products under investigation and to require a cash deposit or bond be posted equal to the estimated net subsidy. However, on December 17, 1987, the countervailing duty final determination was extended to coincide with the final antidumping duty determination, pursuant to section

606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act). Under Article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days. Thus, we could not impose a suspension of liquidation on the subject merchandise for more than 120 days without final determinations of subsidization and injury. Therefore, on February 10, 1987, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after February 24, 1987.

We will reinstate suspension of liquidation if the ITC issues a final affirmative determination. If we issue a final countervailing duty order, we will instruct Customs Officers to collect a cash deposit of 15.6 percent *ad valorem*.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation, will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to reinstate the suspension of liquidation and assess countervailing duties on all entries of cut flowers from Peru, entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,  
Assistant Secretary for Import  
Administration.

February 27, 1987.

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[C-331-601]

**Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Fresh Cut Flowers From Ecuador**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**SUMMARY:** We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Ecuador of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 1.01 percent *ad valorem*. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Ecuador that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of these products in the amount equal to the estimated net bounty or grant.

**EFFECTIVE DATE:** January 13, 1987.

**FOR FURTHER INFORMATION CONTACT:** Barbara Tillman, Ellie Shea, or Lori Cooper, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2438, 377-0184, or 377-8320.

**SUPPLEMENTARY INFORMATION:**

**Final Determination and Order**

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Ecuador of cut flowers. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Tax Credit Certificates for Exports.
- Short-Term FOPEX Export Credit.
- Long-Term Loans under the Fund for the Development of Exportable Production.

We determine the estimated net bounty or grant to be 1.01 percent *ad valorem*.

**Case History**

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of § 335.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Ecuador of cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate

a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21953, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made, pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Ecuador is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is nondutiable. However, there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Ecuador. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Ecuador materially injure, or threaten material injury to, a U.S. industry.

On June 20, 1986, we presented a questionnaire concerning petitioner's allegations to the Government of Ecuador in Washington, DC. We received responses from the government on July 11 and 22, August 20, September 9, and October 14, 1986. We received responses from the companies on July 23, August 20 and 29, September 9, 11, 12, 16, and 29, and October 2, 4, 10, and 14, 1986.

Because of the extension of the preliminary determination, we were able to verify the responses to the questionnaire prior to the preliminary determination. Verification was conducted in Ecuador from September 22 through October 5, 1986.

On the basis of information contained in the responses and information found at verification, we made a preliminary affirmative countervailing duty determination on October 20, 1986 (51 FR 37925, October 27, 1986).

At the request of petitioner and respondents, a public hearing was held on December 9, 1986. Both petitioner and respondents filed briefs discussing the issues arising in this investigation which have been taken into consideration in this determination.

**Scope of Investigation**

The products covered by this investigation are fresh cut miniature

(spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard carnations, standard chrysanthemums, and pompon chrysanthemums, currently provided for in item 192.21 of the TSUS.

**Analysis of Programs**

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For the sales values used in our calculations, we consider that the verified statistics from the Central Bank are the most accurate figures for the following reasons.

During verification, we found that there was a three-tiered exchange rate system in effect in Ecuador during the review period, consisting of an official market rate and an intervention market rate set by the Monetary Board of the Central Bank, and a free market rate. Until November 12, 1985, exporters were required by law to exchange foreign currency earned from export transactions at the official market rate at the Central Bank. On November 12, 1985, the official market rate became applicable only for the internal transactions of the Central Bank and exporters were then required to exchange foreign currency earned from export transactions at the intervention market rate in effect at the same time. Both of these rates were lower than the free market rate. On August 12, 1986, the Government of Ecuador abolished the multiple exchange rate system; currently, the free market rate is the only exchange rate in effect in Ecuador.

We also found during verification that the export sales figures reported by the companies were, in some cases, significantly different from the figures maintained by the Central Bank. Central Bank officials explained that the discrepancies might be attributable to under-reporting by exporters due to the requirement that exporters exchange their dollars earned from exports at the official market rate or intervention market rate, depending on the period, rather than the higher free market rate. Respondents maintain that export sales figures reported by the companies are more accurate than the Central Bank's figures. We tested this assertion by randomly selecting one company not among those included in the top 60

percent of the value of exports of the subject merchandise to the United States in 1985. At the verification of this randomly-selected company, we found that the sales figures reported for exports of the subject merchandise to the United States included exports of a flower not within the scope of this investigation and included commissions and handling costs. Because the sales figures reported by the companies could not be supported at verification, we have relied upon the export sales figures verified at the Central Bank for purposes of our calculations.

In relying on Central Bank figures, the three original respondent companies—Eden Flowers, Floreexport and Serena Flowers—comprise only 57.19 percent of the value of exports of the subject merchandise to the United States in 1985. We requested and received a response from a fourth company, Florisol, on September 29, 1986. The four companies comprise 61.97 percent of the value of exports of the subject merchandise to the United States in 1985.

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1985, which corresponds to the fiscal year of the respondent companies. Based upon our analysis of the petition, the responses to our questionnaire, verification, and comments filed by petitioner and respondents, we determine the following:

#### *I. Programs Determined to Confer Bounties or Grants*

We determine that bounties or grants are being provided to producers or exporters in Ecuador of cut flowers under the following programs:

##### **A. Tax Credit Certificates for Exports**

Petitioner alleges that negotiable tax credit certificates (CATs) are granted to companies that export non-traditional goods. Rates range from seven to 18 percent depending on the value of exports and location of the company. In addition, petitioner alleges that agricultural exports receive a flat five percent credit, and that new products and goods considered to be difficult to market abroad receive a ten percent credit.

Petitioner also alleges that the Government of Ecuador classifies companies into three categories for the purpose of conferring tax certificates. The "special" classification is given to companies designated by the National Development Council (CONADE) as being of high priority. Category "A" industries consist of new or existing

companies that produce raw materials, semi-manufactured or finished goods for use in agriculture, forestry, mining or fishing. Firms must export at least 50 percent of their output or produce import substitutes to qualify for "A" status. Category "B" companies include new or existing enterprises that CONADE deems as contributing to economic development. Petitioner believes that flower growers and exporters qualify for Category "A" status.

During verification, we found that CATs are granted to companies that export non-traditional goods. Flower growers do not qualify for benefits under the Industrial Development Law which classifies companies as special, A, or B and which provides for CATs of up to 18 percent of the FOB value of export shipments. Under the Agriculture and Livestock Development Law of 1979, however, flower growers are eligible to receive a five percent tax credit. In certain instances, such as where access to foreign markets is especially difficult or new products are being introduced, the tax credit may increase by up to seven percent for a total of twelve percent on agricultural goods.

Each January a governmental committee approves a list of products eligible for CATs. Once the request for the tax credit is approved, the Central Bank of Ecuador is responsible for issuing the CAT. The actual tax credits are calculated on the FOB value of each export shipment and are expressed in sucres on the certificate, using the exchange rate in effect at the time the foreign currency originating from the export is delivered to the Central Bank. Prior to November 12, 1985, the official market rate was applicable to such transactions. From November 12, 1985 through August 12, 1986, the intervention market rate was applicable. Once issued, the CATs may not be redeemed for a period of one year from the date of shipment of the export. However, these certificates are negotiable and can be freely sold or purchased directly or through the stock exchange without any waiting period. Assignment of the CAT is achieved through endorsement.

During verification, we found no evidence that Florisol or Serena Flowers received or negotiated CATs in 1985. Floreexport received and negotiated three CATs in 1986, after our review period. We also found that four CATs were issued in 1985 in the name of Proano Tafur, a former partner in Eden Flowers. These CATs were calculated as five percent of the FOB value of export shipments. Respondents assert that the company never realized any benefit from the CATs as the partner in question either retained or sold the

CATs for his personal benefit. However, we consider that a benefit provided to one member of a partnership, based upon the company's exports, is a benefit to the company itself. Because these CATs are available only to exporters, we determine that this program is countervailable.

Although an exporter is required by law to hold the CAT for at least one year from the date of the export shipment if it is to be applied against tax payable, we are not treating this program like other tax programs in which the benefit is realized in the year the tax return is filed. This is due to the fact that CATs are normally sold, rather than redeemed for tax purposes. In the case of Eden Flowers, we were unable to ascertain at verification whether or not the CATs issued have been sold. Therefore, to calculate the benefit, we are using the face value of the CATs, as the best information available.

To calculate the benefit, we summed the value of the CATs in sucres issued to Proano Tafur, based on exports of the subject merchandise to the United States in 1985 of Eden Flowers. We converted this amount to U.S. dollars using the intervention market rate in effect during December 1985, the month in which the CATs were issued. We then divided this figure by the value in U.S. dollars of total exports of the subject merchandise to the United States in 1985 of the four respondent companies. On this basis, we calculate an estimated net bounty or grant of 0.91 percent *ad valorem*.

At verification, we found that this program was suspended indefinitely on August 12, 1986. However, because benefits may still be accruing from this program, and because this program has been suspended and reinstated in the past, we are not adjusting the bonding rate to reflect this change.

##### **B. Short-Term FOPEX Export Credit**

Petitioner alleges that the Fund for the Promotion of Exports (FOPEX) grants low-cost short-term loans to exporters against guarantee of future shipment.

FOPEX was created in July 1972 under the administration of the Securities Commission-National Financial Corporation (CFN). Since December 1977, FOPEX has been included as one of the lines of financing of the CFN. The objective of FOPEX is to promote the export of non-traditional goods through the financing of export transactions and through investment in companies that orient their production to export.

FOPEX loans at eight to ten percent interest per year are available only for postshipment financing. In order to

obtain postshipment financing, applicants must produce export documents evidencing a completed transaction, such as promissory notes, bills of credit, or letters of credit. Flowers from Ecuador are generally sold on a consignment basis. Therefore, exports of flowers do not generate the typical export documents described above. As a result, exports of flowers are not eligible to receive postshipment loans. Flower exporters are eligible only for preshipment loans at 18 percent interest per year.

During verification we found that Serena Flowers had one short-term FOPEX loan with principal outstanding in 1985. Because short-term FOPEX loans are available only for export-related purposes, we determine that they are countervailable to the extent that they are provided at preferential rates. Using as our benchmark the maximum legal interest rate on short-term loans in Ecuador, plus an additional two percent tax levied on all short-term loans and a 0.25 percent cancer research tax applicable to all loans in Ecuador, we compared the interest rate on the loan to Serena Flowers to this benchmark. We determine that this FOPEX loan was provided at a preferential interest rate.

According to our short-term loan methodology, the benefit from a short-term loan arises at the time an interest payment is due. The FOPEX loan was given to Serena Flowers in December 1985 with all interest to be paid when the loan became due, September 16, 1986. Because no interest was due on this loan in 1985, we determine that no benefit was conferred during the review period. Therefore, the estimated net bounty or grant is zero.

#### C. Long-Term Loans Under the Fund for the Development of Exportable Production

Although not alleged by petitioner, we examined loans provided through the fund for the development of exportable production under the Fondos Financieros program. This program was established by decree on April 12, 1973, and consists of five separate funds: the agriculture and livestock development fund; the fund for small industry, handicrafting, tourism and fishery; the integral project fund; the fund for the development of exportable production; and the external resources fund. Flower growers are eligible for financing under both the agriculture and livestock fund and the fund for the development of exportable production. (See Section II.B. of this notice for a discussion of loans granted under the fund for agriculture and livestock development.) At

verification, we found that flower growers are not eligible for financing under the fund for small industry, handicrafting, tourism and fishery; the integral project fund; or the external resources fund.

Fondos Financieros loans under all funds were available in 1985 at 18 percent interest, plus a two percent commission on loans of more than two years and a 0.25 percent cancer research tax. In all instances, recipients must self-finance at least ten percent of the project. Where a loan greater than 3,000,000 sucres is sought, the recipient must self-finance at least 20 percent of the project.

During verification, we found that Serena Flowers received one loan and Florisol received two loans under the fund for the development of exportable production of the Fondos Financieros loan program. Also, two partners in Eden Flowers each received a loan under this fund. All of these are fixed-rate long-term (from three-to five-year) loans, which had principal outstanding during the review period. Because these loans are available only to exporters, we determine that they are countervailable to the extent that they are provided at preferential rates.

According to our long-term loan methodology as outlined in the Subsidies Appendix, we use as a benchmark other fixed-rate long-term loans received by the company in the same year. Serena Flowers received a fixed-rate long-term Bonos de Fomento loan in the same year as its loan under the fund for the development of exportable production. Eden Flowers and Florisol had no other long-term loans.

At verification, we found that there are no long-term commercial loans available in Ecuador. We also found that the predominant alternative source of financing available to the agricultural sector is financing under the Bonos de Fomento loan program. We have determined that Bonos de Fomento loans are not limited to a specific enterprise or industry, or group of enterprises or industries (See Section II.A. of the notice), and we are, therefore, using the Bonos de Fomento rates as our benchmark for loans provided under the fund for the development of exportable production. Even though we determined that loans under the agriculture and livestock development fund of the Fondos Financieros program are available to all agriculture and are, therefore, not countervailable (See Section II.B. of the notice), they are not an appropriate benchmark because the agriculture and

livestock development fund loans given to the respondent companies are loans of one or two years.

Comparing the actual interest rates charged on these loans to the Bonos de Fomento benchmark loans, and taking into account the different levels of financing available under the Bonos de Fomento program, we determine that the interest rates are preferential on loans to Florisol and Eden flowers. Applying our long-term loan methodology, we calculate an estimate net bounty or grant of 0.10 percent *ad valorem* from these loans.

#### II. Programs Determined Not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to producers or exporters in Ecuador of cut flowers under the following programs:

##### A. Bonos de Fomento Long-Term Loans

Petitioner alleges that the growers and exporters of cut flowers in Ecuador are eligible for several types of low-cost financing for agricultural projects. The Agriculture and Livestock Development Law of March 1979 provides flower growers and exporters with special credit lines for medium- and long-term loans with grace periods of up to four years. In addition, it is alleged that flower growers and exporters may obtain preferential loans for agricultural projects through commercial banks, and two government-owned banks, the Corporacion Financiera Ecuatoriana de Desarrollo and the Banco Nacional de Fomento.

During verification, we found that the only credit line established under the Agriculture and Livestock Development Law is Bonos de Fomento. These loans are available through the government-owned Banco Nacional de Fomento and from commercial banks.

We found no lines of credit designed specifically to finance the investments of flower growers. Rather, we verified that Bonos de Fomento loans are fixed-rate long-term loans available to all producers of agricultural products. The purpose of Bonos de Fomento loans is to finance medium- and long-term investments (from five to ten years). Agricultural activities may be funded up to 90 percent of the project cost.

In 1985, Bonos de Fomento loans were available at 18 percent interest plus three percent annual commission and 0.25 percent cancer research tax. The maximum grace period is four years. Monetary Board regulations obtained from the Central Bank of Ecuador subsequent to verification specify that the official published interest rate on



Bonos de Fomento loans given in 1984 was 16 percent and twelve percent for loans given in 1983. The commission charged during those years was a minimum of two percent and a maximum of three percent. The maximum grace period was four years. Serena Flowers and Florexporth received Bonos de Fomento loans which had principal outstanding during the review period. The interest rate plus commission and tax and the terms of the loan provided to each company are the same as the published rate in effect at the time of each company's respective loan.

Because these loans are provided to all agriculture and because the terms of these loans to Serena and Florexporth are the same as the published terms on Bonos de Fomento loans in the year in which the loans were provided, we determine that these loans are not limited to a specific enterprise or industry, or group of enterprises or industries, and that these loans do not confer bounties or grants.

#### B. Loans under the Agriculture and Livestock Development Fund

During verification, we found that Florexporth, Florisol, and Serena Flowers received loans under the agriculture and livestock development fund of the Fondos Financieros loan program. (See Section I.C. of the notice for a complete description of this program.) The loans to these companies were provided at the published rates for this program. Our examination of source documentation showed that loans under the agriculture and livestock fund have been provided to virtually all agricultural and livestock activities. Because these loans are available to more than a specific enterprise or industry, or group of enterprises or industries, and because the terms of the loans to Florexporth, Florisol, and Serena are the same as the published terms in the year in which the loans were provided, we determine that these loans do not confer bounties or grants.

#### C. Import Duty Exemptions

Petitioner alleges that companies eligible for incentives may be exempted from all or part of the import duties on imported raw materials, machinery and equipment. During verification, we found that the benefits alleged by petitioner are available under the Industrial Development Law, which does not pertain to flower growers. Under the Agriculture and Livestock Development Law of 1979, however, a 100 percent exemption for duties and certain surcharges was available for the importation of virtually all agricultural

products up until 1983. Such products include, among others, agricultural tools and machinery, pharmaceuticals for veterinary use, pesticides, fertilizers, chemicals, vitamins, antibiotics, fertilized eggs, animals for breeding, refrigeration equipment, milk storage containers, fire protection equipment for farm facilities, fumigation equipment, irrigation equipment, seeds, bulbs, and live plants. On June 8, 1983, the 100 percent exemption was reduced to 65 percent. Because this 65 percent exemption from duties and surcharges is available to all producers of virtually all agricultural commodities, we determine that this program does not confer bounties or grants to the producers and exporters of cut flowers in Ecuador.

During verification at Eden Flowers, we were told that a farmer partner had brought plant cuttings, imported from Israel, as capital to Eden Flowers. We were unable to establish at verification whether this import transaction occurred in 1985 or whether the appropriate duties were paid. According to the Department's regulations, 19 CFR Part 355, Annex I.3, an import duty exemption on items physically incorporated into the final product is not a countervailable benefit. Because plant cuttings are a physically incorporated input into flowers, we do not find the undocumented import of plant cuttings by Eden Flowers to confer a bounty or grant.

#### D. Long-Term Loan to Florexporth

During verification, we found that Florexporth received a fixed-rate long-term loan in May 1985 for the maintenance of land for the cultivation of pomom chrysanthemums. Eighty-six percent of this loan is financed by the Inter-American Development Bank (IDB) and the remaining fourteen percent is financed by the Banco Nacional de Fomento (BNF).

According to the standard policy of the Department, funds received from international organizations such as the IDB are not countervailable. (See, e.g., *Initiation of Countervailing Duty Investigation: Certain Textile and Textile Products from the Philippines* (49 FR 34381, August 30, 1984). Therefore, we determine that the portion of the loan financed by the IDB does not confer bounties or grants.

During verification, we were unable to ascertain the availability and distribution of such financing by the BNF. However, when we compared the terms of the portion of the loan financed by the BNF to the fixed-rate long-term Bonos de Fomento loans which we are using as our benchmark, we found no difference. Therefore, we determine that

this portion of the loan does not confer a bounty or grant.

#### E. Long-Term FOPEX Loan to Serena Flowers

Although not alleged by petitioner, long-term loans are available under the FOPEX program. During verification, we found that a fixed-rate long-term FOPEX loan was approved in 1984 for Serena Flowers.

Because FOPEX loans are available only to exporters, we determine that they are countervailable to the extent that they are provided at preferential rates. According to our long-term loan methodology as outlined in the Subsidies Appendix, we use as our benchmark other non-countervailable fixed-rate long-term loans of the company received in the same year. Because the terms of this loan were set and agreed upon in 1984, we compared the actual interest rate, commission, taxes, and terms of this FOPEX loan to the fixed-rate long-term Bonos de Fomento loan given to Serena Flowers in 1984. Since the terms and conditions of the fixed-rate long-term FOPEX loan are higher than the benchmark, we determine that this loan was not provided at a preferential rate and, therefore, does not confer a bounty or grant.

#### III. Programs Determined Not To Be Used

We determine that the producers or exporters in Ecuador of cut flowers did not use the following programs:

##### A. Tax Deductions for New Investment

Petitioner alleges that companies that establish new industrial facilities or make investments in existing enterprises may deduct 50 percent of their investment in fixed assets from taxable income. Companies located in Ecuador's promotional zone, which includes all of Ecuador and the Galapagos except the provinces of Pichincha and Guayas (were Quito and Guayaquil are located), may deduct 100 percent of new investment in fixed assets from their taxable income.

According to the response of the Government of Ecuador, and based upon our findings during verification, these tax deductions are not available to the flower industry. Furthermore, all of the respondent companies are located in the province of Pichincha and are ineligible for any benefits based upon location in a promotional zone.

##### B. Tax Holidays

Petitioner alleges that flower growers and exporters are eligible for three- to



ten-year tax holidays on all taxes except income and sales taxes. These duration of the exemption depends on the firm's location and category. In addition, petitioner alleges that the firms which produce goods named on the List of Directed Investments (LID) and which are located in Ecuador's promotion zone qualify for an extra three percent tax credit. Petitioner believes that flowers are one of the 23 agro-industrial products named on this list.

According to the response of the Government of Ecuador, and based upon our findings during verification, these tax holidays apply only to industrial activities and flowers are not on the LID. Therefore, we determine this program not to be used.

#### C. Tax Exemptions for Transfers of Real Estate

Petitioner alleges that Category "A" enterprises which are located in Ecuador's promotional zone are exempt from taxes on transfers of real estate and on various other taxes, including property taxes, for up to ten years. According to the response of the Government of Ecuador, and based upon our findings during verification, these tax benefits are not available to the flower industry.

#### D. Sales and Income Tax Exemptions

Although not specifically alleged by petitioner, information provided in Exhibit 25 of the petition led us to investigate whether the Government of Ecuador provides benefits to producers or exporters of cut flowers in the form of sales and income tax exemptions. Companies engaging in LID activities and located in Ecuador's promotional zone are exempt from income tax for ten years from the start of production and from sales tax for ten years following the receipt of their incentive classification. According to the response of the Government of Ecuador, and based on our findings during verification, these exemptions are not available to the flower industry.

#### E. Other Tax Exemptions

Petitioner alleges that flower farms which export more than 50 percent of production are premanently exempt from incorporation, reorganization, stock transfer, capital and export taxes. According to the response of the Government of Ecuador, and based upon our findings during verification, these tax exemptions are not available to the flower industry.

#### F. Government Refinancing of Private Debt

Petitioner alleges that the Central Bank of Ecuador assists companies in refinancing private sector foreign debt. Companies use local currency to repay their foreign-currency denominated loans to the Central Bank, which in turn repays foreign creditors in dollars using preferential exchange rates. According to the responses, and based upon our finding during verification, none of the companies subject to this investigation has received assistance from the Central Bank to refinance its private debt. Therefore, we determine this program not to be used.

#### IV. Program Determined Not To Exist Preferential Treatment for Imports of Seeds

Petitioner alleges that the Government of Ecuador provides preferential treatment for imports of seeds. During verification, we found no evidence of preferential exchange rates for the purchase of seeds or any special seed funding program. Therefore, we determine that this program does not exist.

#### Petitioner's Comment

*Comment 1:* Petitioner contends that the countervailing duty law is concerned with the bestowal of a bounty or grant on the production, manufacture, or export of a product and that, on this basis, the CATs issued to Proano Tafur of Eden Flowers are countervailable.

*DOC Position:* We agree. (See DOC Position on Respondent's Comment 3.)

*Comment 2:* Petitioner contends that the Department was unable to determine the true extent of participation in the CAT program by the respondent companies because CATs can be issued in the name of individuals as well as companies. Therefore, they argue that the Department should determine, as best information available, the net benefit from the program to be twelve percent.

*DOC Position:* We disagree. A list of partners and individuals associated with the respondent companies was obtained at verification. A review of all export permits and CATs issued in 1984 and 1985 turned up no evidence that any of the other respondent companies, or individuals associated with those companies, received CATs in 1985.

*Comment 3:* Petitioner contends that the Department should calculate a benefit from the short-term FOPEX loan to Serena Flowers, even though there was no payment due in 1985, and should add the benefit to the cash deposit rate. Petitioner argues that this would

recognize the certainty of receipt of benefits in 1986 and would capture benefits accruing on entries between the final determination and the first 751 review.

*DOC Position:* According to the Department's methodology, we calculate the benefit from a short-term loan when the interest is due. Petitioner has not provided any persuasive reasons or shown any unusual circumstances to cause us to change our methodology for purposes of this investigation. Furthermore, the preshipment FOPEX loan to Serena Flowers financed exports made after the review period. We will be able to capture benefits accruing in 1986 in our administrative review under section 751 of the Act, if one is requested. Therefore, we are not adjusting the cash deposit rate.

*Comment 4:* Petitioner contends that, because the verification team was allowed to review only Serena Flowers' records on the FOPEX loan program during verification at the CFN, the Department should use the best information otherwise available for purposes of this program. Petitioner also asserts that the respondent companies may, in fact, have received post-shipment FOPEX loans as Florisol reported in its response to the antidumping duty questionnaire that it does not always sell on consignment.

*DOC Position:* We agree. Our review of source documentation at the companies turned up no evidence of any FOPEX loans outstanding in 1985, other than the pre-shipment loan to Serena Flowers. We are satisfied that we adequately verified information pertaining to all FOPEX loans.

*Comment 5:* Petitioner contends that the appropriate benchmark for the short-term FOPEX loan to Serena Flowers is the maximum legal interest rate on short-term commercial loans, plus two percent, which can be added in commercial banking transactions.

*DOC Position:* We agree. The 23 percent maximum legal interest rate on short-term (less than two-year) commercial loans is the nominal rate. The effective rate is an additional two percent, plus a 0.25 percent cancer research tax, which we have included in our benchmark.

*Comment 6:* Petitioner contends that the benchmark the Department used for long-term loans is the preliminary determination is erroneous because it is itself a preferential rate available only to companies within the agricultural sector. Petitioner argues that the Department should use the highest short-term commercial rate in 1985, as reported by the Central Bank, as the

long-term benchmark because in the absence of preferential government financing, flower growers and exporters would have to obtain short-term financing and continuously roll over their debt.

**DOC Position:** We disagree. The Department considers programs available to the entire agricultural sector not to be limited to a specific enterprise or industry, or group of enterprises or industries. During verification, we found that the Bonos de Fomento loans are the predominant alternative source of long-term financing available to the agricultural sector. We also found that there are no long-term commercial loans available in Ecuador. In an economy such as Ecuador's where the government controls a large part of the agricultural credit market and where there are no long-term commercial loans, we must consider government funds that are not limited to a specific enterprise or industry, or group of enterprises or industries as a legitimate part of the commercial environment facing any agricultural firm. Therefore, we determine that the Bonos de Fomento loan program is the appropriate long-term benchmark. See, the *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada* (50 FR 25097, June 17, 1985) and the *Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement: Roses and Other Cut Flowers from Colombia* (51 FR 44930, December 15, 1986).

**Comment 7:** Petitioner contends that, if the Department chooses not to use a commercial rate for long-term benchmark purposes, the Department should use a weighted average of preferred and non-preferred credit lines. Petitioner states that such a methodology would understate the true extent of the benefit, but would be preferable to a methodology which compares a preferential rate to a preferential rate.

**DOC Position:** We disagree. (See DOC Position to Petitioner's Comment 6.)

**Comment 8:** Petitioner contends that the absence of long-term commercial loans in Ecuador is not likely to be verifiable.

**DOC Position:** We disagree. During verification, officials from private banks and from the U.S. Agency for International Development confirmed that there are no long-term (more than two-year) commercial loans available in Ecuador. Furthermore, our review of the financial records of the four respondent companies showed no evidence of loans

of more than one year from commercial sources.

**Comment 9:** Petitioner argues that, if the Department continues to use a government-backed loan rate as a benchmark as it did in the preliminary determination, the two to three percent commission on Bonos de Fomento loans should be added so that the benchmark reflects the effective rate of such financing.

**DOC Position:** We agree. In our calculations, we have added the three percent commission applicable to Bonos de Fomento loans.

**Comment 10:** Petitioner contends that the Department erred in its preliminary determination in finding that the Bonos de Fomento and Fondos Financieros loans from the agriculture and livestock funds were available to all producers of agricultural products and were, therefore, not bounties or grants.

**DOC Position:** We disagree. Information reviewed during verification supports our preliminary finding of the availability of these programs to all agriculture.

**Comment 11:** Petitioner contends that, even if the Bonos de Fomento program is available to a range of industries within agriculture, flower growers received Bonos de Fomento loans at a lower rate than the stated rate of the program. Therefore, Bonos de Fomento loans are countervailable even under the Department's general availability test, and at a minimum the *ad valorem* benefit should be equal to the difference between the stated Bonos de Fomento rate and the rate actually obtained by the flower growers.

**DOC Position:** We disagree. The Bonos de Fomento loans in question were received in 1983 and 1984. Monetary Board regulations obtained from the Central Bank of Ecuador show that the Bonos de Fomento loans received by the flower growers in 1983 and 1984 were at the official published rate for this program during those years, and that these published rates are lower than the published rate charged on loans given in 1985.

**Comment 12:** Petitioner contends that export promotion is among the main objectives of all or most of the programs found at the preliminary determination to be available to a wide range of industries within agriculture and cites Articles 1(b) and 4(b) of the Agriculture and Livestock Development Law of 1979. Petitioner further contends that the extent of availability of benefits under the programs is irrelevant, as the benefits are conditioned upon exports and are, therefore, countervailable.

**DOC Position:** We disagree. The availability of these programs is not

limited to exporters nor contingent upon export performance; thus, they are not export subsidies. Although one of the many objectives of the Agriculture and Livestock Development Law is to increase exportable production, other objectives include increasing domestic production, promoting agricultural activity to increase investment in the agricultural sector, promoting more efficient use of resources to achieve maximum national production capacity, promoting and improving services to agricultural producers, etc. We found no evidence in the responses or during verification to support petitioner's allegation that most or all of the programs are countervailable as export programs. We are countervailing the export programs found to be used and are not countervailing the non-specific domestic programs. See also, the *Final Affirmative Countervailing Duty Determination: Ceramic Tile from Mexico and Countervailing Duty Order* (47 FR 20012, May 10, 1982).

**Comment 13:** Petitioner contends that the Department's preliminary finding that loans provided under the agriculture fund of the Fondos Financieros program are not countervailable while loans provided under the export development fund of the same program are countervailable is illogical and incongruous. Petitioner argues that all Fondos Financieros loans are countervailable.

**DOC Position:** We disagree. (See DOC Position to Respondents' Comment 5.)

**Comment 14:** Petitioner contends that, to the extent flower growers and exporters received benefits under the fund for the development of exportable production of the Fondos Financieros program, the final determination should treat such benefits as countervailable.

**DOC Position:** We agree. (See Section I.C. of this notice.)

**Comment 15:** Petitioner contends that the Department should use best information available in making its final determination on the Fondos Financieros program because Department personnel were not permitted to view the general ledger of all Fondos Financieros loans during verification.

**DOC Position:** We disagree. While we were unable to review complete documentation at the Central Bank due to confidentiality requirements, we were able to discuss the program and review documentation at several commercial banks. We are satisfied that we have adequately verified the information pertaining to this program.

**Comment 16:** Petitioner contends that because Central Bank records did not

show the import by a partner in Eden Flowers of plant cuttings from Israel, the reliability of all Central Bank records is undermined and the responses of the government and the individual companies are rendered unreliable. Therefore, petitioner argues that all allegations, including import-duty exemptions, should be decided on the basis of the best information available, to the extent that they are not supported by objective, documentary evidence freely supplied to the Department.

**DOC Position:** We disagree. The fact that the Central Bank had no record of this import transaction does not call into question all of the records of the Central Bank, nor does it establish that the entire import duty exemption program was not verified. We are satisfied that we have adequately verified the information pertaining to this and all other programs. Furthermore, in accordance with our regulations, 19 CFR Part 355, Annex I.3, we do not countervail import duty exemptions on items physically incorporated into the final product. Because plant cuttings are a physically incorporated input into flowers, we are not countervailing the undocumented import transaction of Eden Flowers.

**Comment 17:** Petitioner reiterates that the program allegation on Preferential Treatment for Imports of Seeds came from a report prepared by the Dutch agricultural attaché in Venezuela. Petitioner asks whether the Department has contacted the Dutch Embassy to clarify the nature of the alleged program.

**DOC Position:** At verification we found no evidence of any program under which preferential loans, exchange rates, or other funding are provided for imports of seeds. We found that the U.S. Government, through the Commodity Credit Corporation (CCC), provides funds for the importation of excess U.S. production of foodstuffs for basic consumption and of agricultural and livestock products. These loans are provided at the maximum legal interest rate of 23 percent plus the two percent tax and 0.25 percent cancer research tax. We saw no evidence that any such loans were provided to the companies subject to this investigation. We are satisfied that our verification of this program was adequate and that no additional clarification is needed.

#### Respondents Comments

**Comment 1:** Respondents contend that the CAT program was a means of compensating exporters for the artificially low exchange rate—the intervention market rate—at which they were required by Ecuadorian law to exchange their export earnings, and

therefore, is not countervailable. Respondents contend that the fact that both the CAT program and the multiple exchange rate system were terminated at the same time is evidence of the interrelationship between the two programs.

**DOC Position:** We recognize that exporters were required by law to convert their foreign exchange at the official market rate until November 12, 1985, and at the intervention market rate from August 12, 1985 through August 12, 1986. We also recognize that both of these rates were lower than the free market rate during 1985. However, during verification we saw no evidence that the Government of Ecuador established the CAT program for the purpose of compensating exporters for the lower exchange rate. Furthermore, while the multiple exchange rate system has been terminated, the CAT program has only been suspended, albeit indefinitely. Therefore, we have found that the CAT program provides a direct benefit based on the FOB value of exports, and is countervailable.

**Comment 2:** Respondents contend that 19 U.S.C. 1677(6)(C) gives the Department the authority to subtract from the CATs the penalty associated with the detrimental exchange rate to which exporters were subject during the review period. They maintain that the exchange rate was the equivalent of other charges levied on the export of merchandise to the United States specifically intended to offset the subsidies received.

**DOC Position:** We disagree. We do not consider the exchange rate system in Ecuador to be an export tax, duty, or other charge levied on the export of merchandise to the United States specifically intended to offset the subsidy received. Therefore, it is not among the permissible offsets outlined in 19 U.S.C. 1677(6)(C). We saw no evidence that the exchange rate system was a charge imposed to offset the benefit from the CAT program. For these reasons, we are not subtracting from the value of the CATs received, the alleged penalty associated with the difference between the exchange rate to which exporters were subject during the review period and the free market rate.

**Comment 3:** Respondents contend that the CATs issued in December 1985 to Proano Tafur should not be found countervailable because Mr. Tafur sold his portion of the Eden Flowers partnership in November 1985 and retained or negotiated the CATs for his own personal benefit. Therefore, no benefits accrued to Eden Flowers from these CATs.

**DOC Position:** We disagree. The CATs issued in the name of Proano Tafur were based on Eden Flowers' 1985 export shipments of the subject merchandise to the United States. Furthermore, Mr. Tafur was a partner in Eden Flowers as of the date of application for the CATs. We have no evidence that the CATs were not part of the consideration for Eden Flowers' purchase of Tafur's share of the partnership. For these reasons, we find that these CATs are attributable to Eden Flowers and are countervailable.

**Comment 4:** Respondents contend that the indefinite suspension of the CAT program should be considered a program-wide change and therefore be reflected in an adjusted bonding rate. Respondents further argue that the previous suspension of the CAT program from March 1983 to June 1984 was due to a monetary and political crisis in Ecuador which made it impossible for the government to finance the CAT program. The indefinite suspension of the program announced on August 12, 1986, respondents maintain, is part of an overall plan to liberalize trade, eliminate protectionism, and allow free market forces to govern. They assert that the suspension is actually a permanent discontinuance and that current exports are not benefitting from this program.

**DOC Position:** We disagree. During verification, we found that Florexport received CATs in 1986. Therefore, although the program has been suspended indefinitely, benefits may still be accruing from this program. Furthermore, the program has not been terminated; rather, it has been suspended indefinitely. Because benefits may still be accruing from this program (specifically from the CATs issued to Florexport in 1986), because the indefinite suspension implies at least the possibility for reinstatement of the program, and because the CAT program has been suspended and reinstated in the past, we are not considering this to be a program-wide change for cash deposit purposes.

**Comment 5:** Respondents contend that the Fondos Financieros loan program is only one fund, available to the entire agricultural sector, and therefore is not countervailable. Respondents further maintain that all loans under the program are identical regardless of purpose, and therefore, there is no additional benefit bestowed if a loan is granted for export activities. They further assert that, as the Fondos Financieros program constitutes one fund, it is incongruous for the Department to hold that loans given to

finance exports are countervailable, while loans given to finance agricultural activities are not.

**DOC Position:** We disagree. During verification, we found that the Fondos Financieros loan program is, in fact, five separate funds. Application is made to a specific fund and the approved loan proceeds are from a specific fund which is indicated on the loan approval forms. Flower growers and exporters are eligible to receive loans under the agriculture and livestock development fund, which we found to be available to virtually all agricultural and livestock activities, and under the fund for the development of exportable production. Because loans given under the fund for the development of exportable production are contingent upon exports, we found these loans to be countervailable to the extent they are provided at preferential rates. Arguably, we could have used loans under the agriculture and livestock development fund as a benchmark. However, agriculture and livestock development fund loans are inappropriate for benchmark purposes because the loans we examined were provided on different terms than the loans under the fund for the development of exportable production. The agriculture and livestock development fund loans are for one to two years, while loans under the export fund are for three to five years.

**Comment 6:** Respondents contend that, if loans under the Fondos Financieros loan program are found to be countervailable, the Department should use the free market exchange rate to convert sucres to dollars in calculating the benefit. Respondents further argue that the official and intervention market rates were artificially low rates set by the Central Bank applicable to foreign currency earned from exports; currency obtained from all other transactions was exchangeable at the floating free market rate.

**DOC Position:** We disagree. During the review period, Ecuadorean companies were required by law to convert their foreign exchange earned from exports to sucres at the official market rate and, beginning in November 1985, at the intervention market rate. Therefore, these rates are the best reflection of sucres earned for export transactions and the best measure of the value of the benefits received under the fund for the development of exportable production of the Fondos Financieros loan program.

**Comment 7:** Respondents contend that the FOPEX program is not countervailable. They argue that during

the period of investigation exporters were disadvantaged due to the requirement that they exchange their export earnings at the lower intervention market rate, and that even with FOPEX loans, exporters were not receiving a net benefit, rather they were experiencing a net loss.

**DOC Position:** The provision of short-term export loans at preferential rates is a countervailable benefit under the countervailing duty law. The exchange rate policy in effect in Ecuador during the review period is an issue unrelated to the provision of short-term preferential loans based on exports.

**Comment 8:** Respondents contend that the Department correctly used an agricultural benchmark in its preliminary determination to calculate the benefit from long-term loans and should continue to use the benchmark in the final determination.

**DOC Position:** We agree. During verification, we found that there are no long-term (more than two-year) commercial loans available in Ecuador. We also found that the Bonos de Fomento loan program is the predominant alternative source of long-term financing available to all agricultural activities. Therefore, we determine that the Bonos de Fomento loan program is the appropriate long-term benchmark.

#### Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government officials, as well as on-site inspection of the companies, inspection of documents and ledgers, and tracing information in the responses to source documents, accounting ledgers, and financial statements.

#### Suspension of Liquidation

In accordance with section 705(c)(1)(B) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Ecuador which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register, and to require a cash deposit of each entry of this merchandise equal to 1.01 percent *ad valorem*. This suspension will remain in effect until further notice.

This determination is published pursuant to section 705(d) of the Act [29 U.S.C. 1671d(d)].

Paul Froedenburg,

Assistant Secretary for Trade Administration,

January 5, 1987.

[FR Doc. 87-599 Filed 1-12-87; 8:45 am]

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**APPENDIX D**  
**EC TARIFF RATES FOR FRESH CUT ROSES**

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## Legislation

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#### I Acts whose publication is obligatory

- ★ Commission Regulation (EEC) No 3174/88 of 21 September 1988 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ..... 1

Price: 73,50 ECU

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

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CN code	Description	Rate of duty		Supplementary unit
		autonomous (%) or levy (AGR)	conventional (%)	
1	2	3	4	5
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared :			
0603 10	— Fresh :			
	— — From 1 June to 31 October :			
0603 10 11	— — — Roses . . . . .	24	24	p/st
0603 10 13	— — — Carnations . . . . .	24	24	p/st
0603 10 15	— — — Orchids . . . . .	24	24	p/st
0603 10 21	— — — Gladioli . . . . .	24	24	p/st
0603 10 25	— — — Chrysanthemums . . . . .	24	24	p/st
0603 10 29	— — — Other . . . . .	24	24	—
	— — From 1 November to 31 May :			
0603 10 51	— — — Roses . . . . .	20	17	p/st
0603 10 53	— — — Carnations . . . . .	20	17	p/st
0603 10 55	— — — Orchids . . . . .	20	17	p/st
0603 10 61	— — — Gladioli . . . . .	20	17	p/st
0603 10 65	— — — Chrysanthemums . . . . .	20	17	p/st
0603 10 69	— — — Other . . . . .	20	17	—
0603 90 00	— Other . . . . .	20	—	—
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared :			
0604 10	— Mosses and lichens :			
0604 10 10	— — Reindeer moss . . . . .	10	Free	—
0604 10 90	— — Other . . . . .	13	10	—
	— Other :			
0604 91	— — Fresh :			
0604 91 10	— — — Christmas trees and conifer branches . . . . .	12	10	—
0604 91 90	— — — Other . . . . .	12	10	—
0604 99	— — Other :			
0604 99 10	— — — Not further prepared than dried . . . . .	10	4	—
0604 99 90	— — — Other . . . . .	17	—	—





**APPENDIX E**  
**EC COMMISSION REGULATION SUSPENDING PREFERENTIAL DUTY**  
**TREATMENT FOR FRESH CUT ROSES FROM ISRAEL**

## COMMISSION REGULATION (EEC) No 24/89

of 5 January 1989

suspending the preferential customs duties and re-introducing the Common Customs Tariff duty on imports of large — flowered roses originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco<sup>(1)</sup>, as amended by Regulation (EEC) No 3551/88<sup>(2)</sup>, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers;

Whereas Council Regulation (EEC) No 3005/88<sup>(3)</sup>, (EEC) No 3175/88<sup>(4)</sup>, (EEC) No 3552/88<sup>(5)</sup> and (EEC) No 4078/88<sup>(6)</sup> open and provide for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

(a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;

or

(b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days

during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EEC) No 3557/88<sup>(7)</sup> fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88<sup>(8)</sup>, as amended by Regulation (EEC) No 3556/88<sup>(9)</sup>, lays down the detailed rules for the application of the arrangements;

Whereas, in order to enable the arrangements to operate normally, the following should be used for the calculation of the import prices:

- for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85<sup>(10)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(11)</sup>;
- for the other currencies, a conversion rate based on the arithmetic mean of the spot market rates for the currency, as recorded over a given period, against the Community currencies referred to in the preceding indent, and the abovementioned factor;

Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for large flowered roses originating in Israel; whereas the Common Customs Tariff duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

#### Article 1

For imports of large-flowered roses originating in Israel, the preferential customs duty fixed by Council Regulation (EEC) No 4078/88 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced from 7 January 1989.

#### Article 2

This Regulation shall enter into force on 7 January 1989.

<sup>(1)</sup> OJ No L 382, 31. 12. 1987, p. 22.

<sup>(2)</sup> OJ No L 311, 17. 11. 1988, p. 1.

<sup>(3)</sup> OJ No L 271, 1. 10. 1988, p. 7.

<sup>(4)</sup> OJ No L 283, 18. 10. 1988, p. 1.

<sup>(5)</sup> OJ No L 311, 17. 11. 1988, p. 2.

<sup>(6)</sup> OJ No L 359, 28. 12. 1988, p. 8.

<sup>(7)</sup> OJ No L 311, 17. 11. 1988, p. 9.

<sup>(8)</sup> OJ No L 72, 18. 3. 1988, p. 16.

<sup>(9)</sup> OJ No L 311, 17. 11. 1988, p. 8.

<sup>(10)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(11)</sup> OJ No L 153, 13. 6. 1987, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 January 1989.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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