Dated: October 8, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–27135 Filed 10–10–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Building and Zoning Permit Systems

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 28, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Linda Hoyle, Manufacturing and Construction Division, Bureau of the Census, Room 2105-FOB 4, Washington, DC 20233–6900, phone number (301) 457–1321.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of the Census produces statistics used to monitor activity in the large and dynamic construction industry. These statistics help state and local governments and the Federal Government, as well as private industry, to analyze this important sector of the economy. The accuracy of the Census Bureau statistics regarding the amount of construction authorized depends on data supplied by building and zoning officials throughout the country.

The Bureau of the Census uses Form C–411 to obtain information from state and local building permit officials needed for updating the universe of permit-issuing places. The questions pertain to the legal requirements for issuing building or zoning permits in the local jurisdictions. Information is obtained on such items as geographic coverage and types of construction for which permits are issued.

The universe of permit-issuing places is the sampling frame for the Building Permits Survey (BPS) and the Survey of Construction. These two sample surveys provide widely used measures of construction activity, including the economic indicators, Housing Units Authorized by Building Permits and Housing Starts.

We made the following changes to the form:

a. We deleted two questions:

(1) ''What kind of permits does your office issue?'' and

(2) ''When did your government first begin issuing permits?''

The first question asked for the same information as another question. We no longer need the information requested in the second question.

b. We added two questions:

(1) ''If the jurisdiction listed in Section A.1 is a county, does your office issue permits for portions of jurisdictions located in other counties?'' and

(2) ''If the jurisdiction listed in Section A.1 is a city, town, village, borough or township, is it in more than one county?''

We need the above information to ensure that we update our universe of permit-issuing places correctly for these types of places.

We will request information about permits issued for new residential nonhousekeeping; new nonresidential building; additions, alterations, and conversions; and demolitions and razing of buildings only through a reimbursable agreement. If we do not get that agreement, we will only collect information about permits issued for new residential buildings.

II. Method of Collection

The form is sent to a jurisdiction when the Census Bureau has reason to believe that a new permit system has been established or an existing one has changed, based on information from a variety of sources including survey respondents, regional councils and Census' Geography Division which keeps abreast of changes in corporate status. Responses typically approach 100 percent.

III. Data

OMB Number: 0607–0350.

Form Number: C–411.

Type of Review: Regular submission.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 2,000 per year.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 500 hours.

Estimated Total Annual Cost: The cost to the respondents is estimated to be $7,325 based on an average hourly salary of $14.65 [1] for state and local government employees.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 8, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–27136 Filed 10–10–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–602]

Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of antidumping duty administrative review.

SUMMARY: On April 8, 1997, the Department of Commerce (the Department) published the preliminary results of the ninth administrative

[1] Taken from the Census Bureau's Annual Survey of State and Local Government Employment.

review of the antidumping (AD) duty order on certain fresh cut flowers from Colombia. This review covers a total of 351 producers and/or exporters of fresh cut flowers to the United States during the period March 1, 1995 through February 29, 1996.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have made certain changes for the final results. The review indicates the existence of dumping margins for certain firms during the review period.

EFFECTIVE DATE: October 14, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth Graham or Roy Malmrose, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4105 and (202) 482–5414, respectively.

APPLICABLE STATUTE AND REGULATIONS: The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to those codified at 19 C.F.R. Part 353 (April 1997).

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1997, we published a notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review (Preliminary Results), wherein we invited interested parties to comment. See 62 FR 16772 (April 8, 1997). At the request of interested parties, we held a public hearing on June 6, 1997.

Scope of Review

Imports covered by these reviews are shipments of certain fresh cut flowers from Colombia (standard carnations, miniature (spray) carnations, standard chrysanthemums and pompon chrysanthemums). These products are currently classifiable under item numbers 0603.10.30.00, 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description of the scope of this order remains dispositive.

Rescission

At the time of our Preliminary Results, we had received responses from 63 firms indicating that they did not ship during the period of review (POR). As a check on this information, we requested and received from the U.S. Customs service a listing of all companies which shipped subject merchandise to the United States during the POR. Customs' listing confirmed 40 of the companies' claims that they had no shipments during the POR and the Department verified that one company did not export subject merchandise. For the remaining 22 that claimed no shipments, but whose names appeared on Customs' list, we determined that those companies failed to cooperate to the best of their ability and assigned them an adverse facts available (AFA) rate.

Subsequent to the Preliminary Results, we received information about those 22 companies. We examined documentation for each firm and found that the entries reported by Customs for 21 of these firms resulted from either a mistaken listing of the respondent firm as the producer or an incorrect listing of the flower type and HTS number. Therefore, we have determined that these companies did not ship the subject merchandise during the POR. For a complete list of these companies, see section entitled ''Non-Shippers'' in this notice. (The remaining company is discussed below.)

Consistent with our administrative practice, we have rescinded our review of the 62 companies with no shipments during the POR. See Certain Cased Pencils from the People's Republic of China; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 62 FR 1734 (January 13,1997) (rescinding review in part with respect to respondents which, the Department determined, had no shipments of the subject merchandise during the POR); see also, 19 CFR 351.213(d)(3) (62 FR 27296 (May 19, 1997)) (although this review is not governed by these new regulations, they do reflect current practice).

Regarding the remaining company, Flores Tiba, Customs' data indicated five entries of subject merchandise exported by Flores Tiba during the POR. On June 5 and July 21, 1997, Flores Tiba submitted information demonstrating that while portions of Customs data were incorrect, Flores Tiba did have one entry of subject merchandise during the POR. Flores Tiba explained that the company does not produce or export subject merchandise in its normal course of business; the sale in question was a special order of a negligible quantity. For this reason, the sale had been overlooked.

Flores Tiba's submissions notwithstanding, the Department lacks the necessary information to calculate a margin for Flores Tiba's entry during the POR. Therefore, in accordance with section 776(a) of the Act, the Department has resorted to the use of facts available (FA) for Flores Tiba. However, upon consideration of Flores Tiba's explanation for the oversight, we have determined that an adverse inference is not warranted. Given that Flores Tiba does not normally produce or export the subject merchandise, it is not unreasonable that a small sale such as this would be overlooked. Moreover, the error was discovered too late to allow respondent sufficient time to correct the deficiency (*i.e.*, to submit the information which would allow us to calculate a margin). Therefore, as FA, we have assigned Flores Tiba the non-selected respondent rate of 2.26 percent.

Duty Absorption

On March 29, 1996, petitioner, the Floral Trade Council (FTC), requested that the Department determine whether AD duties had been absorbed by respondents during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine, during an administrative review initiated two or four years after publication of the order, whether AD duties have been absorbed by a foreign producer or exporter subject to the order, if the subject merchandise is sold in the United States through an importer which is affiliated with such foreign producer or exporter. The statute requires the Department to notify the International Trade Commission of its findings regarding duty absorption for consideration in conducting a five-year ''sunset'' review (to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping and of material injury). Section 751(a)(4) was added to the Act by the URAA. The regulations governing this review do not address this provision of the Act.

For ''transition orders,'' as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's recently enacted regulations provides that the Department will make a duty absorption determination, if requested, for any administrative review initiated in 1996 or 1998. See 62 FR 27296 (May 19, 1997). The preamble issued when these regulations were proposed in 1996 explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. See 61 FR at 7308, 7317 (February 27, 1996). Although these recently enacted regulations are not binding upon the Department, they do constitute a public statement of how the Department expects to proceed in construing section 751(a)(4) of the amended statute. This approach ensures that interested parties will have the opportunity to request a duty absorption determination prior to the time for sunset review of transition orders under section 751(c). Because the order on certain fresh cut flowers from Colombia has been in effect since 1986, this is a transition order. Consequently, based on the policy stated above, it is appropriate for the Department to examine duty absorption in this ninth review, which was initiated in 1996.

In accordance with the statute, at section 751(a)(4), the Department must determine whether duty absorption has occurred if the subject merchandise is sold in the United States through an importer affiliated with the foreign producer or exporter. Of the selected respondents, the following have affiliated importers: The Agrodex Group (Agrodex), the Caicedo Group (Caicedo), the Claveles Colombianos Group (Clavecol), the Cultivos Miramonte Group (Miramonte), the Floraterra Group (Floraterra), the Florex Group (Florex), the Guacatay Group (Guacatay), the HOSA Group (HOSA), the Maxima Farms Group (Maxima), the Queen's Flowers Group (Queen's) and the Tuchany Group (Tuchany). Furthermore, we have determined that there are dumping margins for the following companies with respect to the percentages of their U.S. sales (by quantity) indicated below:

Name of company	Percentage of U.S. affiliated importer sales with margins
Agrodex	1.11
Caicedo	100
Clavecol	9.13
Floraterra	33.40
Florex	8.85
Guacatay	15.20
HOSA	15.88
Maxima	34.98
Miramonte	17.53
Queens	9.90
Tuchany	22.33

In the case of Caicedo, we are unable to calculate a margin based on its response and have, therefore, determined its dumping margin entirely on the basis of AFA. We also have determined, based on AFA, that there are margins on all sales. Lacking other information, we find duty absorption on all sales. See, *e.g.*, Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 62 FR 31566, 31568 (June 10, 1997). With respect to those companies whose margins are not determined based on FA, we presume that the duties will be absorbed for those sales which were dumped, unless there is evidence (*e.g.*, an agreement between the affiliated importer and the unaffiliated purchaser) that the unaffiliated purchasers in the United States will pay the full duty ultimately assessed on the subject merchandise. Although in this case certain companies have provided invoices which separately list an amount for estimated AD duties which they are charging their unaffiliated purchasers, this is not evidence of payment of antidumping duties by the customer, and none of these companies has presented evidence of agreements with unaffiliated purchasers to pay ultimately assessed AD duties. Therefore, we find that the AD duties have been absorbed by the above-listed firms on the percentage of U.S. sales indicated. *See* 62 FR 31568.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results and partial rescission of the order. We received case and rebuttal briefs from the FTC, the Asociacion Colombiana de Exportadores de Flores (Asocolflores), an association of Colombian flower producers representing many of the respondents in this case, and HOSA and Caicedo.

General Issues

Comment 1: Asocolflores argues that the Department's decision to limit the review to the largest exporters and then apply to non-selected respondents the weighted-average margin of these selected respondents violates due process and the AD statute. Asocolflores contends that the 13 largest producers are not a statistically valid sample and thus their average rate is not representative for the non-selected respondents. It adds that the Department has no right to disregard questionnaire responses received from non-selected respondents.

The FTC disagrees contending that the statute gives the Department exclusive authority to assign margins based on a sample of the largest exporters. The FTC also notes that the Department disclosed to all parties the alternatives and considered comments before deciding on this methodology.

DOC Position: We agree with the FTC. According to the statute and SAA, the authority to select respondents, whether using samples or choosing the largest exporters, rests exclusively with the Department. *See* section 777A(a–c) of the Act and SAA at 202. Given the large number of respondents in this case and the new statutory deadlines, the Department concluded that limiting the number of exporters examined was administratively necessary. The Department requested comments on two proposed options for limiting the number of companies to be examined. After analyzing those comments from the interested parties, we chose to limit the number of companies examined by reviewing the largest exporters. *See* Memorandum for Barbara Stafford from Team dated November 21, 1996. With respect to not examining the responses received from non-selected respondents, the statute does not require that we look at every questionnaire response placed on the record. See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China, 61 FR 19036 (April 30, 1996).

Finally, with regard to applying the weighted-average margin of selected respondents to the non-selected respondents, section 777A(c)(2) of the Act provides the Department with the authority to determine margins by limiting its examination to a statistically valid sample of exporters or the largest volume of the subject merchandise that can be reasonably examined. This subparagraph is formulated as an exception to the general rule that each company for which a review is requested will be individually examined and receive a calculated margin. The method for establishing the rate for the non-selected respondents is left to the agency's discretion. As discussed in comment 2, the weighted-average of the calculated rates is a reasonable method.

Comment 2: Asocolflores states that the Department properly excluded the one rate based entirely on AFA in calculating the rate applied to non-selected responding companies. However, citing *Serampore Indus. Pvt. Ltd.* v. *United States* (696 F. Supp. 665, 669 (CIT 1988)) and *Romer* v. *Evans,* 116 S. Ct. 1620, 1627 (1996), Asocolflores contends that there is no legal basis for the Department's exclusion of zero and *de minimis* margins from the margin applied to non-selected respondent companies.

Asocolflores claims that due process would be violated if only selected respondents benefitted from zero or *de minimis* margins. If some of the respondents selected by the Department show zero or *de minimis* margins, Asocolflores states, it is reasonable to assume that some of the non-selected respondents also would have received the same had they been individually reviewed. Asocolflores reminds the Department that the purpose in limiting the review to only 13 selected respondents was to use their rates to project the rates of the non-selected respondents. Acknowledging that the AD statute provides for the exclusion of zero and *de minimis* margins in calculating the cash deposit rate for non-examined producers in an investigation, Asocolflores differentiates this situation from the final results of an administrative review which give rise to actual duty payments (as opposed to cash deposit rates). Asocolflores emphasizes that, because the Department decided to limit the number of respondents, all exporters and importers do not have the ability to obtain their own assessment rates as they normally would in an administrative review.

The FTC objects to the position advanced by Asocolflores, stating that there is no valid basis for excluding margins based on AFA on one hand while including *de minimis* margins on the other. On the contrary, the FTC argues that the Department should include margins based on AFA in the rate applied to non-selected responding companies since it is likely that some non-selected respondents would have failed to qualify for their own calculated rate due to failed verifications, failure to submit responses, etc. The FTC cites the Court of International Trade (CIT) in *Floral Trade Council* v. *United States* (16 CIT 654, 657, 799 F. Supp. 116, 119 (1992)) where it said, ''this court has approved 'all other' rates based on an average that includes BIA rates'' and later where it says ''[n]ot all BIA rates are inappropriate for use in calculating unified 'all other' rates'' (*Id.* At 658, 799 F. Supp. at 120).

DOC Position: We have continued to calculate the cash deposit rate for non-selected respondents by excluding both AFA and zero/*de minimis* rates. While there may be situations when it would be appropriate to include AFA or zero/*de minimis* rates in the rate to be applied to companies whose entries are not individually examined, there is no over-arching rule as to their inclusion or exclusion. With respect to the precedents cited by the FTC and Asocolflores, the situation here differs in that we have, for the first time, restricted a review to the largest exporters.

Underlying the arguments of both the FTC and Asocolflores is the notion that the selected respondents are somehow representative of the whole group of potential producers/exporters. As in investigations, where only the largest producers/exporters are selected, those selected here cannot necessarily be said to be representative of the whole population. Therefore, we cannot treat the selected companies as a statistical sample and compute a margin that is based on the results for all of the selected companies. As for Asocolflores' concerns that due process would be denied to non-selected respondents should we not include zero/*de minimis* margins, we disagree. Once the Department decides to limit its review to certain producers/exporters, including zero/*de minimis* rates while excluding AFA rates would yield an unbalanced result because, as the FTC points out, some non-selected firms might also have received AFA.

As stated above, this is the first time in a review of this or any order that we have examined only the largest producers/exporters. In deciding how to calculate the rate to apply to non-selected companies that responded to our questionnaire, we reviewed our past practice and determined that the most analogous situation we have dealt with in the past is in non-market economy (NME) investigations where the number of companies that submit full responses is too large to be investigated. In those investigations, as in the present case, what we did paralleled the statutorily mandated formula for calculating the all-others rate, *i.e.*, the weighted-average rate of investigated companies not including AFA and zero/*de minimis* rates.

Comment 3: Asocolflores and other respondents allege that the Department erred in assigning an ''all others'' rate of 3.53 percent from the Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Colombia, 52 FR 6842 (March 5, 1987) (Flowers (LTFV)) to the companies that were unlocatable in this review rather than an ''all others'' cash deposit rate of 3.1 percent from the Amendment to Final Determination of Sales at Less Than Fair Value in Accordance with Court Decision, 56 FR 12508 (March 26, 1991).

DOC Position: We agree with Asocolflores that the correct ''all others'' cash deposit rate from Flowers (LTFV) is 3.1 percent and should be assigned to the unlocatable companies in this review.

Comment 4: Both Asocolflores and the FTC acknowledge that the Department should develop a mechanism which allows respondents to preserve their eligibility for revocation. However, the FTC argues that such eligibility should be limited to those companies that are selected for review and have two years of no dumping. According to the FTC, this option comports most closely with the AD law by providing for the revocation of orders only for companies that have been subjected to actual reviews. Asocolflores opposes this option because it limits revocation eligibility to the largest exporters (assuming the Department continues to review only the largest exporters). Asocolflores claims there is no basis for denying revocation eligibility to smaller producers.

Asocolflores favors the approach whereby companies would be allowed to make a retrospective claim that they have not dumped for the past three years in the form of a ''changed circumstances'' review in the eleventh period (*i.e.*, the first review period in which revocations could be possible under this order). Asocolflores argues that this approach conserves the administrative resources of the Department, reduces the verification burden, and is easier to administer. Moreover, Asocolflores suggests that, under the new regulations, a retrospective revocation review in the eleventh POR could be limited to an examination of data for only the ninth and eleventh periods, further reducing the administrative burden and simplifying verification.

The FTC concedes that the ''changed circumstances'' approach is the most efficient and states that if the Department chooses not to follow the FTC's preferred option (eligibility only for companies which have been reviewed), the ''changed circumstances'' approach should be adopted, provided the companies are subject to verification for the entire three-year period. The FTC also expressed its concerns that a company may be entitled to base revocation on a period for which no review was requested.

DOC Position: Having reviewed the comments we received on this issue, we have decided to adopt the following procedure for addressing requests for revocation by small companies in this proceeding. We believe this procedure addresses many of the concerns raised by the parties and, at the same time, meets the resource constraints faced by the Department.

Under this procedure, companies that were not selected for examination in prior reviews (because of the large number of companies for which a review was requested) will have a mechanism for obtaining revocation on the basis of three consecutive years of sales at not less than normal value. The first opportunity for such a procedure will occur in the review of the period March 1, 1997 to February 28, 1998 (the eleventh review period). Companies that request a review for that period may also request revocation if they meet the following criteria: (1) a review was requested for the company in each of the two years immediately preceeding the period of review in which revocation is requested, but the company was not selected for examination in either of those two preceding reviews; and 2) with the request for revocation the company (a) certifies that it sold subject merchandise at not less than normal value during the period described in 19 C.F.R. 351.213(e)(1) and for two consecutive years immediately preceeding that period; (b) provides the certifications required under 19 C.F.R. 351.222(e)(ii) and (iii); and (c) submits a statement acknowledging that its entries are subject to assessment of AD duties at the non-selected respondent rate in one or both of the two preceding review periods. If a company meets these criteria, Commerce will examine the company's sales during the current period of review for purposes of determining a dumping margin in accordance with section 751(a) of the Act. In accordance with section 751(a)(2) of the Act, the results of that analysis will form the basis for any assessment of antidumping duties on entries during that period and for cash deposits. In addition, for the purposes of revocation only, Commerce will examine data for the two prior years to determine whether the company sold subject merchandise at not less than normal value. If Commerce determines that the company sold subject merchandise at not less than normal value in each of the three years examined and the other conditions of 19 CFR 351.222 are met, it will revoke the order with respect to that company.

The Use of Facts Available

Comment 5: While Caicedo acknowledges that there were a number of problems encountered at the Bogota verification, the company argues that the rate applied in the preliminary results (25.58 percent) is inappropriate for two reasons. First, Caicedo argues that the rate chosen as the highest rate ever applied to the Caicedo Group was in fact never applied to the Caicedo Group. In fact, asserts Caicedo, the rate was applied in the third review to one of the farms that is now part of the Caicedo Group, but which, in that review, was treated as an individual company. The companies which now comprise the Caicedo Group, asserts Caicedo, were not treated as a group until the fourth review (citing Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review, and Notice of Revocation of Order (in Part), 59 FR 15159 (March 31, 1994) (Flowers (90–91)). Second, Caicedo argues that a recent decision by the Court of Appeals for the Federal Circuit (CAFC) (*D&L Supply Co.* v. *United States,* 133 F. 3d 1220 Fed Cir. 1997) (D&L Supply) calls for the Department to select a FA rate that reasonably reflects conditions in the industry. When compared to the majority of the calculated rates in this and previous reviews, Caicedo asserts that the 25.58 percent rate has no relationship to commercial practice in this industry.

Caicedo suggests that it would be more appropriate to use either the highest rate received by the group during the reviews in which the companies were treated as a group or by constructing group rates for the earlier reviews by averaging the rates applied to the individual members of the group in those reviews. According to Caicedo, these methods would produce a rate which relates to the past practices of the Caicedo Group and which reflects conditions in the industry.

Furthermore, Caicedo argues that the Department has the discretion not to apply the highest available rate and asserts that the facts in this case do not warrant the highest available rate. Caicedo argues that one of the stated reasons for applying FA, *i.e.*, the fact that Caicedo had not adjusted its material and labor costs for inflation, is inappropriate. Caicedo claims that the Department did not ask for this information in either the original or supplemental questionnaires, despite the fact that Caicedo had clearly explained in its questionnaire response that the inflation adjustment had not been included. Therefore, claims Caicedo, it cannot be penalized for not providing this information.

Finally, Caicedo argues that the company's situation during this review should be taken into consideration. According to Caicedo, the affiliated Miami importer went through a period of downsizing during the review period, as a result of which Caicedo was forced to sell during the review period to approximately 60 unaffiliated U.S. importers. This disruption in the normal U.S. selling practice made the preparation of the sales response a particularly arduous task. Caicedo's task was further complicated by the fact that the Group was operating with a reduced staff. In light of this situation, Caicedo argues that mistakes discovered at verification, such as the misclassification of constructed export price (CEP) versus export price (EP) sales and the inappropriate use of the date of receipt of payment as the date of sale, were not that serious and do not warrant the use of a rate which Caicedo asserts will put the company out of business.

The FTC argues that the Department should apply an AFA rate of 76.60 percent (the highest rate for any company during this and any prior segment of this proceeding) because Caicedo failed to cooperate during the review and verification process. The FTC argues that such a failure to cooperate could have only been willful, given Caicedo's past experience in this order. The FTC asserts that in order to ensure cooperation in the future, the Department should apply a rate of 76.60 percent, since it is clear that the application of 25.58 percent to a member of the Caicedo group during a past review did not affect Caicedo's behavior during the current review.

Regarding Caicedo's arguments that the 25.58 percent rate should not apply to the Caicedo Group because that rate was never applied to the group as defined in any prior administrative review, the FTC argues that the relevant issue is not the composition of the Caicedo Group during prior review periods, but the composition during this review period, when Cauca was in fact one of the members of the Caicedo Group. Because Cauca is part of the Caicedo Group in this review, it may fairly be assumed that Caicedo's margin of dumping in this POR ''bears some relationship'' to the past practices of all of the companies within the group, including Cauca. Moreover, the Department cannot calculate an average of the rates applicable to group members in prior review periods. To accurately calculate a weighted-average, we would need verified 1995–1996 sales figures.

DOC Position: While we have concluded that the deficiencies in Caicedo's responses and the problems at verification reflected a failure on Caicedo's part to cooperate to the best of its ability, we disagree with the FTC's conclusion that the earlier rate of 25.58 percent is not sufficiently adverse. While we acknowledge that the problems with the responses and the verification rendered Caicedo's information unuseable for purposes of calculating a dumping margin, we found that the company made significant efforts to respond to our requests for information and to undergo verification.

As detailed in the preliminary results, Caicedo misclassified CEP sales and misreported many dates of sale, using the date that payment was received rather than invoice date. (Caicedo's comments regarding inflation adjustments are addressed further below.) We recognize that the company faced difficult circumstances during the review period, but we find that a company that has successfully participated in numerous reviews, as Caicedo has, can reasonably be expected to have done a better job of responding to our inquires. Consequently, in accordance with section 776(b) of the Act, we have determined that adverse inferences are warranted in determining through FA the dumping margin for this company.

We have examined Caicedo's arguments with respect to applying Cauca's rate to the Caicedo Group as a whole and agree that we should only look back to rates that have been applied to the Caicedo Group in the past or the rates that would have been applied had current members of the Caicedo Group been analyzed as part of the group in the earlier reviews. The highest rate calculated in this manner is the average of the rates received by the individual companies currently comprising the Caicedo Group in the third administrative review (see Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review and Revocation in Part of the Antidumping Duty Order, 56 FR 50554, (October 7, 1991) (Flowers (89–90)), which is 6.46 percent.

However, we have further determined that it would not be appropriate to apply this rate to Caicedo in the circumstances presented by this review. Of the companies that were individually examined in this review, the highest rate is 8.36 percent for Floraterra. Since Floraterra cooperated fully in the review and its responses were verified, we have determined that Caicedo should not receive a lower rate than Floraterra. Therefore, we have assigned the Caicedo Group a dumping margin of 8.36 percent. Because it is higher than any historical rate for the Caicedo Group as a whole, it provides substantial incentive for Caicedo to do a better job of responding to our inquires in future reviews.

With respect to the FTC's argument that we cannot calculate a weighted-average rate from a prior review of the individual members of the Caicedo Group because we lack verified 1995–96 sales figures, we disagree. The weight-average rate that would have been applied to the Caicedo group in Flowers (89–90) would have been calculated using sales figures from that review period, not 1995–96. Therefore, although we have not used the historical rate, we computed it using the ranged sales figures in the public versions of the responses filed in Flowers (89–90).

Regarding Caicedo's argument that one of our bases for AFA was unsupported, we disagree. In the questionnaire, companies were allowed to include amortized amounts of preproduction expenses in material and labor costs but, for the companies that did so, they were directed to ''identify which expenses contain pre-production expenses and fully describe your amortization methodology.'' (See page D19 and D24 of the Department's questionnaire.) Caicedo did not identify where it had included amortized expenses, nor did it provide a description of its amortization methodology. Without this information, the Department was unable to identify any problems to be addressed in its supplemental questionnaires because it was not aware that amortized amounts had even been included. Also, the questionnaire was clear that reported depreciation expenses should be adjusted for inflation, and Caicedo failed to make this type of adjustment. (See page D32 of the Department's questionnaire.)

Finally, with respect to the CAFC's decision in D&L Supply, we note that it concerned a segment of a proceeding under the Act prior to imposition of URAA-related amendments and the facts before the court in that case differed from the facts here. D&L Supply involved the Department's use, as best information available (BIA), of information which had conclusively been determined in the course of litigation to be inaccurate. In D&L Supply, the court decided that we could not use a judicially invalidated rate as a BIA rate in subsequent reviews. The 25.88 percent rate we used in our preliminary results has not been invalidated by subsequent court decisions. Nevertheless, the rate we have assigned Caicedo in these final results does not conflict with the CAFC's philosophy in D&L Supply, because it is clearly consistent with commercial practice in this industry as it was the calculated rate of another company.

Comment 6: Because all loan documentation was not available at verification, the FTC requests that the Department apply AFA in calculating Tuchany's U.S. credit costs. Specifically, the FTC suggests that the U.S. credit costs for Tuchany should be calculated using the highest rate for any loan for which documentation was available. Asocolflores argues that the Department should continue to use the FA rate of LIBOR plus six percent.

DOC Position: Because certain information concerning Tuchany's credit costs could not be verified, the Department used an FA rate of LIBOR plus six percent to calculate Tuchany's U.S. credit costs in the preliminary results of this review. This represents the average of the interest rates on the loans for which documentation was available at verification. We did not apply AFA in selecting this interest rate because we have not concluded that Tuchany failed to cooperate by not acting to the best of its ability. (See Section 776(b) of the Act.) Tuchany complied with all of our requests for information in this review and, with this one exception, we were able to verify the information provided. Therefore, for these final results, the Department has continued to use the non-adverse rate employed in the preliminary results to calculate U.S. credit costs for Tuchany.

Comment 7: Flores El Lobo requests that the Department reconsider its preliminary decision to apply AFA to the company and instead to apply the non-selected company rate to it. The company was not originally represented by counsel. When the company received the Department's questionnaire, reports Flores el Lobo, a company official signed for the questionnaire. However, according to the company, because the company was in liquidation and had ceased operations, it did not file a timely response. According to the company, in September 1996, Eden Floral Farms, one of Flores El Lobo's unaffiliated importers, decided to prepare a response. On behalf of Eden Floral Farms, Asocolflores contacted the Department and was advised that Eden should file a response for Flores El Lobo on October 9, 1996. Because the company was instructed by the Department to file a response and did so, Asocolflores asserts that Flores El Lobo should not be penalized with an AFA rate.

The FTC supports the Department's decision to treat Flores El Lobo as a non-respondent and assign an AFA margin to the company. If, as the company claims, it was in the process of liquidation at the time it received the questionnaire, asserts the FTC, it should have at least reported its status to the Department. Further, argues the FTC, the Department should not accept the company's untimely response provided by Flores El Lobo's importer as evidence that the company was cooperative or acting to the best of its ability. According to the petitioner, without the AFA provision of the law, there would be no incentives for timely, complete reporting in response to the Department's questionnaire.

DOC Position: We have reconsidered our treatment of Flores El Lobo. At the time of the preliminary results, we overlooked the fact that Eden Farms had been advised by the Department to file a late response on behalf of Flores El Lobo. Given the fact that its importer attempted to cooperate with the Department by requesting that it respond late on behalf of its exporter, for these final results, we have not found that Flores el Lobo failed to act to the best of its ability in responding to the Department's inquiries. *See* Section 776(b) of the Act. Accordingly, it is inappropriate to assign Flores El Lobo an AFA rate. Furthermore, like other companies in this review, because Flores El Lobo was not a selected company, its response had no impact on our analysis. For purposes of the final results of review, we have assigned Flores El Lobo the non-selected companies' rate, 2.26 percent.

Export Price or Constructed Export Price

Comment 8: Asocolflores maintains that the Department should compare the annual average CV with the annual average CEP or EP in light of the extreme seasonality of U.S. demand of the subject merchandise. The FTC argues that the use of an annual average U.S. price is unnecessary and will not produce a more representative U.S. price. Instead, FTC contends, such averaging on the U.S. side will mask dumping.

DOC Position: As we have stated in prior reviews and the investigations of Colombian flowers, (see, e.g., Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833, (August 19, 1996) (Flowers (91–94))), we have exercised our authority under section 777A of the Act to use averaging techniques and have computed monthly average U.S. prices. Our use of monthly averages for the U.S. price has been upheld by the CIT. See, *e.g., Floral Trade Council* v. *United States,* 775 F. Supp. 1492, 1499–1501 (CIT 1991).

For the current review, we have continued to use monthly average U.S. prices. By relying on monthly averages, we are able to use the exporters' actual price information, which is often available only on a monthly basis. As in prior reviews, we have not adopted Asocolflores' suggestion that we move to annual averages. In our view, use of an annual average would allow respondents to dump during periods of low demand, a result that is not consistent with the statute.

Comment 9: Queen's argues that the Department's logic of treating the affiliated flowers producers as a single entity for AD duty calculation purposes should also apply to affiliated importers. Queen's asserts that the Department collapses companies that are affiliated when there is a significant potential for price manipulation. Queen's claims that to the extent there is any potential for price manipulation, it exists at the importer level rather than the producer level since the importers generally sell the flowers on a consignment basis.

The FTC responds that the effect of Queen's proposal would be the same as averaging sales over a longer period or greater number of companies, allowing low-priced sales by one importer to offset higher prices obtained by another. The FTC maintains that such a methodology would only serve to mask dumping.

DOC Position: In response to Queen's comment, we are combining the operations of the affiliated importers for purposes of our final results in this review. For Queen's sales through affiliated importers, we calculated a single CEP for each flower type based on the sales data from the affiliated importers. These affiliated resellers would be treated as a single entity if we were not using monthly average prices. Thus, notwithstanding the FTC's concerns about the effects of further averaging, we see no reason to disaggregate these companies' sales.

Comment 10: The Flores Colon Group (Flores Colon) contends that the Department incorrectly included both the costs incurred by Flores Colon's affiliated cargo agent and payment from the cargo agent to Flores Colon in direct selling expenses. In Flores Colon's view, this amounts to double-counting because certain ''expenses'' incurred by the cargo agent were payments to Flores Colon. Hence, Flores Colon argues, these payments are intra-company transfers and should not be deducted as costs.

DOC Position: We disagree with Flores Colon's claim that we included the cargo agent's expenses arising from intra-company transfers in the preliminary results calculations. The only amounts deducted were payments to outside, *i.e.,* non-affiliated, suppliers of the cargo agent and the costs incurred by Flores Colon in supporting the operations of the cargo agent, *e.g.,* wages paid to Flores Colon workers that staffed the cargo agent's operation.

Comment 11: Maxima argues that so-called ''AD reserve surcharges'' added by an unaffiliated consignment seller to the price charged to the first unrelated seller in the United States should be included in CEP. Furthermore, Maxima argues that there is no statutory basis under 19 U.S.C. 1677a(c)(2) and (d) for later deducting these ''AD reserve surcharges'' from CEP since these surcharges are neither movement expenses, export taxes, commissions or selling expenses.

DOC Position: We disagree with Maxima. In the situation discussed by Maxima, the unaffiliated consignment seller is receiving revenue from two sources—from Maxima in the form of a commission and from the purchaser in the form of an AD reserve surcharge. Since Maxima and the consignment seller in this situation are not affiliated, the payment to the consignment reseller for AD reserve surcharges does not accrue to Maxima. Therefore, we have taken as our starting price the price charged by the unaffiliated consignment seller net of the AD reserve surcharge. This differs from our treatment of AD surcharges paid to affiliated consignment sellers, where the AD surcharge can be said to accrue to the affiliated producer/exporter.

Comment 12: Asocolflores asserts that for CEP sales, the Department incorrectly deducted direct and indirect selling expenses incurred in Colombia from CEP. Asocolflores cites the Statement of Administrative Action (SAA) which states that, under section 772(d) of the Act, CEP should be reduced only by those expenses and profit associated with economic activity in the United States. Additionally, Asocolflores cites section 351.402(b) of the recently enacted regulations which directs the Department to ''make adjustments {to CEP} for expenses associated with commercial activities that relate to the sale to an unaffiliated purchaser, no matter where or when paid.'' Citing to Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, 62 11825, 11833–34 (March 13, 1997), and Gray Portland Cement and Clinker from Mexico, 62 FR 17148, 17167 (April 9, 1997) (Cement from Mexico), Asocolflores contends that the Department has interpreted section 772(d) to preclude the deduction of selling expenses incurred in the exporting country from the U.S. price in other administrative reviews and should apply the same interpretation in these final results of review.

For companies that sell outright to their affiliated importers, Asocolflores contends that the expenses are incurred in completing the sale to the importer and, therefore, are not associated with economic activity in the United States. For the companies that make consignment sales, all such expenses are incurred prior to U.S. economic activity and are not assumptions of the importer's selling costs. Furthermore, asserts Asocolflores, since, for EP sales, neither the producer nor affiliated importer engages in any U.S. economic activity and the expenses in question are incurred equally for both CEP and EP sales, they should not be deducted from CEP.

Asocolflores further contends that the Department should not apply its CEP profit ratio to selling expenses incurred in Colombia because the SAA provides for a deduction from CEP for profit allocable to selling activities in the United States and, for the reasons cited above, the export-related activities in Colombia are not selling activities in the United States.

The FTC states that Asocolflores' arguments overlook the fact that flowers are grown commercially in Colombia specifically for U.S. customers and, therefore, all such expenses are associated with economic activity in export markets, principally the United States. Citing the Final Determination of Sales at Less than Fair Value: Certain Pasta from Italy, 61 FR 30326, 30352 (June 14, 1996), the FTC claims that the Department allows selling expenses incurred in the exporting country to be deducted from CEP when ''virtually all'' of the product is sold in the United States. The FTC asserts that ''virtually all'' of the subject flowers are sold in the United States and that the Colombian producers target the subject flowers to the U.S. market. In the alternative, the FTC states that, if such costs are not deducted from CEP, they should be included in selling, general and administrative (SG&A) expenses and added to CV.

DOC Position: We agree with Asocolflores that selling expenses incurred in the home market that are not associated with U.S. economic activity should neither be deducted from CEP nor included in the basis for calculating CEP profit. We closely analyzed the expenses reported by each respondent and have continued to deduct from and include in the basis for profit certain expenses (e.g., association dues and advertising expenses) that are associated with U.S. economic activity. We do not agree with the FTC that respondents sold ''virtually all'' of the subject flowers in the United States, as many of the respondents have substantial third country (TC) sales of such flowers.

In addition, we disagree with petitioner that the expenses not deducted from CEP should be included in CV. In accordance with section 773(e)(2)(B) of the Act, the amount to be included for CV should reflect SG&A incurred for sales in the exporting country.

Comment 13: Asocolflores states that the Department instructed respondents not to offset interest expenses with interest income when calculating indirect selling expenses in the United States. Asserting that it is the Department's standard practice to allow this offset, Asocolflores requests that the Department calculate selling expenses, inclusive of an offset for interest income. If the Department does not have sufficient data to do so, Asocolflores contends that it should provide an opportunity for respondents to submit such information

The FTC contends that the Department does not have a standard practice of allowing interest income to offset U.S. selling expenses and instructed respondents correctly not to report such income. The FTC states that any interest income earned with respect to U.S. sales is either due to intra-company payment terms or earned after the sale by the importer. The FTC argues that any interest income earned after the sale is not related to the production or sale of flowers but rather is income from monetary transactions. Furthermore, the FTC states that section 772 of the Act provides only for adjustments to CEP for ''expenses,'' and does not allow an offset for interest income earned on the sale.

DOC Position: In the context of a sales calculation, it is the Department's standard practice to require respondents to demonstrate a direct relationship between the interest income and the sales under review to qualify for an adjustment. See Certain Cold-Rolled Carbon Steel Flat Products from Germany, 60 FR 65281, Comment 29 (December 19, 1995) (Carbon Steel from Germany). Further, in Carbon Steel from Germany, the Department denied a request for a similar adjustment because the respondent did not claim the adjustment until verification, thus limiting the ability of the Department to investigate the basis of the claim.

We acknowledge that the questionnaire did not clearly reflect the Department's practice of allowing interest income offsets in limited circumstances. However, with the exception of Queen's, none of the respondents raised this issue with the Department in a timely manner or provided the information necessary to evaluate and make the claimed adjustment. Because those respondents did not raise this issue until their case briefs, we had no opportunity to obtain information and evaluate their claims. Thus, we have made no adjustment. In contrast, Queen's did raise the issue in a timely manner, which enabled the Department to ask supplemental questions and verify the basis for the claim. Therefore, we have taken Queen's request into consideration, and have reduced interest expense for Queen's affiliated CEP resellers by the amount of interest income.

Comment 14: The FTC argues that the Department should not treat commissions paid to affiliated importers differently than it treats commissions to unaffiliated importers if it can be shown that the commissions to affiliated importers are at arm's length. The FTC claims that section 772(d)(1) of the Act explicitly requires the Department to first deduct commissions and then any indirect selling expenses in calculating CEP, without distinguishing between affiliated and unaffiliated parties. Furthermore, the FTC contends that the statute recognizes that a CEP reseller, whether or not affiliated, should be treated as a separate entity according to the FTC. Consequently, since both transactions are at the same level of trade, the FTC argues that commissions should be treated the same whether the CEP sale is made through an affiliated reseller or through an unaffiliated reseller.

Asocolflores claims that by deducting the commission paid by the exporter to an affiliated importer and then deducting the importer's selling expenses, the Department would be double-counting selling expenses. In addition, Asocolflores argues that the deduction of the commissions may result in a double deduction of profit in calculating CEP, because section 772(e) of the Act specifically requires a deduction of CEP profit. Asocolflores asserts that to the extent that profit is included in the commission, a double deduction would occur.

DOC Position: We agree with Asocolflores that deducting the commission paid to an affiliated importer and indirect selling expenses would lead to double-counting. To avoid this, we have deducted actual selling expenses rather than the commission paid to the affiliated exporter by the importer. See Flowers (91–94) at 42838. See also, the newly enacted regulations at 19 CFR 351.402 (a) and (e).

Comment 15: Tuchany and Miramonte allege that the Department erred when it subtracted CEP profit not only with respect to affiliated importers but also with respect to unaffiliated consignment importers. The FTC argues that profits should be deducted from all CEP transactions, whether or not the merchandise is sold on a consignment basis. Under the FTC's interpretation of affiliation, any consignment sale implies an affiliation. Therefore, there should be a deduction of CEP profit from all consignment sales.

DOC Position: We disagree with the FTC that any consignment sale implies affiliation between the exporter and the consignment importer. The consignment importer negotiates the price with the U.S. customer without the involvement of the exporter and the amount of the commission paid to the consignment importer is negotiated at arm's length between the exporter and the consignment importer. Therefore, for sales made through unaffiliated consignment importers we have deducted the commission paid to those importers. Further, because the deduction of these commissions results in a price corresponding as closely as possible to an export price between the unaffiliated exporter and importer, we have not made an additional deduction of CEP profit.

Comment 16: Asocolflores argues that the Department erred in its calculation of CEP profit for respondent companies by including EP and consignment sales in the calculation. Asocolflores contends that section 772(f)(2)(C) of the Act indicates that CEP sales to affiliated parties should be the only U.S. sales included in the calculation of CEP profit. In further support of this position, Asocolflores cites to the SAA at 155 which states that ''[i]f there is no profit to be allocated (because the affiliated entity is operating at a loss in the United States and foreign markets), [the Department] will make no adjustment under section 772(d)(3).'' Asocolflores argues that if sales to unaffiliated importers were profitable, there could still be a profit to allocate, while the SAA expressly does not consider such a situation.

The FTC argues that section 772(f)(2)(C) of the Act does not limit the sales to be considered for purposes of computing CEP profit to sales through affiliated importers. The FTC argues that the limitations in sections 772(f)(2)(C)(i), (ii) and (iii) are primarily concerned with the merchandise included in the calculation, not the category of the customer. The FTC additionally argues that consignment agents are affiliated as there exists a control relationship between the consignment agent and the producer of the subject merchandise.

DOC Position: We disagree with Asocolflores. In Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Final Results of Antidumping Duty Administrative Review, 62 FR 18478 (April 15, 1997), the Department addressed the issue of whether EP sales should be included in calculating a CEP profit rate:

> The calculation of total actual profit under section 772(f)(2)(D) includes all revenues and expenses resulting from the respondent's EP sales, as well as from its CEP and home market sales. The basis for total actual profit is the same as the basis for total expenses under section 772(f)(2)(C). The first alternative under this section states that for purposes of determining profit, the term ''total expenses'' refers to all expenses incurred with respect to the subject merchandise, as well as home market expenses. Where the respondent makes both EP and CEP sales to the United States, sales of the subject merchandise would encompass all such transactions.

Further, section 772(f)(2)(B) of the Act defines ''total United States expenses'' as the total expenses described in subsections (d)(1) and (2). Section 772(d)(1) encompasses ''the amount of * * * expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States * * *'' Clearly this would include all consignment and EP sales to unaffiliated parties as well as sales through affiliated resellers. Accordingly, we have continued to include all U.S. sales transactions and associated expenses in our calculation of CEP profit.

Comment 17: Asocolflores argues that, due to the seasonal nature of the demand for fresh cut flowers in the United States, the Department should calculate CEP profit on a monthly rather than an annual basis. Asocolflores argues that the use of an annual profit rate in light of the highly variable monthly profit rates which result from the seasonality of demand for fresh cut flowers distorts the Department's AD calculations. Asocolflores points out that the Act does not specify the time period over which profits should be calculated, thereby affording the Department the discretion to use a monthly calculation. Asocolflores contends that profit rates on sales to EP customers also vary due to seasonality. In support of its argument, Asocolflores cites to the SAA at 153 which states, ''The deduction of profit is a new adjustment in U.S. law, consistent with the language of the Agreement, which reflects that constructed export price is now calculated to be, as closely as possible, a price corresponding to an export price between non-affiliated exporters and importers.''

The FTC responds that sections 772(f)(2)(B) and (C) refer to total expenses without indication that such expenses are to be compared over some period that is a subset of the POR.

Accordingly, the FTC argues, the term ''total'' should mean total for the POR. In support of its position, the FTC cites to Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081, 2125 (January 15, 1997), where the Department indicated a preference for a single rate for CEP profit:

> Indeed, while we cannot at this time rule out the possibility that the facts of a particular case may require division of CEP profit, the statute and SAA, by referring to ''the'' profit, ''total actual profit,'' and ''total expenses'' imply that we should prefer calculating a single profit figure.

The FTC argues that, while prices may vary, the rate of profit expected by the importer is best reflected by the use of an annual rate. The FTC notes that the use of an annual *rate* still results in a variation in the amount of profit when prices vary. Use of an annual rate, the FTC argues, ensures that some profit is assigned to all months, reflecting the expectations of arm's-length importers.

DOC Position: We have continued to use an annual CEP profit rate for purposes of these final results. As the FTC has noted, the Department's historical practice has been to apply a single rate for CEP profit. Although Asocolflores has argued that profit rates may vary due to changes in demand conditions, this is true, to some extent, for many products. Moreover, the CEP profit calculation is not intended to be based on the profit of particular U.S. sales. Rather, it is normally based on the overall profit of home market and U.S. sales. Although a respondent may have few or no home market sales, we nonetheless use an average profit rate for those U.S. and home market sales that were made. We have determined that the circumstances surrounding this case do not compel a departure from our usual practice of using a single rate for CEP profit.

Normal Value

Comment 18: The FTC disagrees with the Department's decision to base normal value (NV) on constructed value (CV), arguing instead that the prices of exports to the United Kingdom (UK) should be used. In support of its argument, the FTC asserts that data submitted to the Department show that the UK was the largest TC market for Colombian flowers in 1995–96. However, rather than focusing on prices to the UK, the analysis relied upon by the Department in rejecting TC prices (the Botero Study) analyzes Aalsmeer (Holland) auction prices. The FTC further argues that the quantity variance in the UK was similar to the variance in the U.S. market, rising and falling in slightly different months. Moreover, the U.S. and UK markets have very similar holidays and holiday demand patterns and all flower-buying holidays except Mother's Day occur in both markets in the same months. Regarding volatility in the markets, the FTC contends that the Department should reconsider its finding that differences in volatility are largely attributable to differences in demand patterns. Volatility can also result anytime there is targeted or sporadic dumping in one of the two markets. Therefore, according to the FTC, the Department should look at whether there is a different demand pattern rather than at volatility.

The FTC comments that the Department has a longstanding preference for basing NV on prices rather than costs. Moreover, the FTC asserts, the statute provides a clear preference for using TC prices over CV, and the regulations state that the Department will normally use TC sales rather than CV if adequate information is available and can be verified. Based on this, the FTC contends that there must be substantial evidence on the record to support the rejection of TC prices.

In light of this preference, the FTC states that if the Department continues to find that U.S. and UK prices are not sufficiently correlated to permit a proper comparison, then the Department should use annual average prices in the two markets. By using an annual average, suggests the FTC, peak pricing that occurs periodically in holiday seasons will be accounted for. The FTC comments that a comparison of annual averages will capture the complete demand cycle in both markets.

Asocolflores disputes the FTC's claim that NV should be based on TC prices. In support of its argument, Asocolflores points out that many of the companies being reviewed had viable home markets. Although the Department would not have used these home market sales because it limited its analysis to export-quality flowers sold, Asocolflores argues that the statute requires the Department to use CV as the basis for NV when home market sales are not made above cost or are not in the ordinary course of trade. Therefore, Asocolflores concludes, for these companies with viable home markets, there is no basis for the Department to rely on TC prices.

Asocolflores also contends that, by allowing the Department to reject home market or TC prices if the ''particular market situation'' in the other country prevents a proper comparison with U.S. prices, the URAA codified the Department's approach to this case. Asocolflores points out that, as of the date of the SAA, this case was the only one in which the Department had rejected TC prices due to demand differences resulting from holidays. Asocolflores further argues that the Department has consistently relied on CV rather than TC prices since the second review of this order, and has been upheld by the CIT in doing so (*Floral Trade Council* v. *United States,* 775 F. Supp. 1492, 1496–98 (1991)) and the CAFC (*Floral Trade Council* v. *United States,* 74 F.3d 1200)(1995). Furthermore, Asocolflores asserts, the same market conditions exist in both the U.S. and UK markets and U.S. and European markets that existed in the second review. According to Asocolflores, the seasonal demand and pricing cycles in the U.S. and TC markets remain fundamentally different, *i.e.,* the U.S. market is much more volatile than TC markets and flower-giving holidays are still different. Asocolflores comments that, if the volatility in U.S. prices compared to TC prices was due to targeted or sporadic dumping, as the FTC asserts, one would expect low prices and high volumes. However, Asocolflores emphasizes, U.S. market prices and volumes are positively correlated.

Regarding the use of Aalsmeer prices, Asocolflores points out that in both prior reviews and the present one, the FTC has relied on the Aalsmeer auction data. According to Asocolflores, the only information the FTC has provided in this review regarding TC prices has been Aalsmeer data. Asocolflores explains that flowers sold through the Aalsmeer are sold throughout Europe and, therefore, serve as a surrogate for European prices generally.

Finally, Asocolflores rejects the FTC's argument that the Department should have compared annual average U.S. prices to annual average TC prices. Even in investigations, where the statute directs the Department to use annual average prices, claims Asocolflores, the statute still provides that home market and TC prices can be rejected due to particular market situations. Asocolflores asserts that when prices in individual months are not comparable because of market conditions, *i.e.,* demand, seasonality, and volatility, annual averaging does not eliminate or adjust for these differences. Rather, it states, averaging masks the differences through the use of a single price. In addition, Asocolflores asserts that if volumes of peak and off-peak sales differed in U.S. and TC markets, dumping margins could be found for reasons having nothing to do with price differences.

DOC Position: Consistent with the approach adopted in prior reviews, we have continued to base NV on CV rather than home market or TC prices. We have disregarded home market prices in accordance with section 773(a)(1)(C)(ii) of the Act because we determined that, although some companies in this review have viable home markets, the home market sales of export-quality flowers are not within the ordinary course of trade. For a further discussion, see Memorandum from Team to Barbara Stafford, Deputy Assistant Secretary, Import Administration, dated January 13, 1997. We have also disregarded TC prices in accordance with section 773(a)(1)(B)(ii) of the Act because we determined that the particular market situation prevents a proper comparison between TC and U.S. prices.

The particular market situation that exists here is: (1) prices in TC markets are not comparable to prices in the U.S. because of the volatility of prices in the United States and the differing peak price periods (holidays) in the U.S. and TC markets; and (2) demand patterns are different between the two markets. These are the types of conditions identified in the SAA that would lead the Department to reject TC prices. Specifically, the SAA states ''[i]t also may be the case that a particular market situation could arise from differing patterns of demand in the United States and in the foreign market. For example, if significant price changes are closely correlated with holidays which occur at different times of the year in the two markets, the prices in the foreign market may not be suitable for comparison to prices to the United States.'' *See* SAA at 152.

We examined the possible use of TC prices in depth in Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review, 55 FR 20491 (May 17, 1990) (Flowers (88–89)), and in Flowers (91–94). A significant factor in our analysis in *Flowers (91–94)* was the Botero Study. In this review, respondents have provided an updated Botero Study that with one exception shows that the conditions that existed during that review period continue to exist during the ninth review period. The one change is that the European Union eliminated flower tariffs for Colombia in 1990, which has made it possible for more companies to sell in Europe. Despite this, we continue to believe that the volatility of prices, differing peak pricing periods and the differing demand patterns warrant rejection of TC prices.

We further disagree with the FTC's characterization of the demand patterns in the U.S. and UK markets. For instance, the FTC states that it provided information in Flowers (91–94)which proves that holidays in the United Kingdom and the United States are comparable. However, as we stated in Flowers (91–94), we are not convinced by this information, as it compares non-flower-giving holidays which happen to coincide, *e.g.*, All Souls' Day and Halloween. Also, as the Botero Study points out, there are flower-giving holidays such as All Saints Day (celebrated in Catholic countries) and Mother's Day (celebrated in the United Kingdom), but these holidays fall at different times of the year than the major U.S. holidays.

Furthermore, we disagree with the FTC's assertion that we incorrectly relied on Aalsmeer auction prices for our determination of the proper basis for NV. We have consistently based our determination of NV on both the Botero Study and other market-wide studies, which have shown that the Aalsmeer data is representative of European prices. We acknowledge that normally the decision to use TC prices or CV is based on company-specific information. However, in the course of this proceeding, we have consistently determined, and have been upheld by both the CIT and CAFC, that information regarding TC markets in general was adequate evidence for a determination of this issue. Further, with respect to the FTC's February 10, 1997 submission, we acknowledge that the submission indicates that the volume of UK imports of Colombian flowers in 1995–96 is approximately equal to the amount imported by the rest of the EU during this period. However, we note that the FTC did not file its data concerning UK prices until February 10, 1997, ten days after our preliminary results of review were completed and nearly four months after our determination was made to use CV rather than TC prices. Despite the assertions to the contrary made by the FTC, given the timing of the submission, it was not possible to determine whether a single TC market is a more appropriate basis for comparison than TC markets in general.

With regard to the Aalsmeer data submitted by the FTC, the usefulness of this data is unclear. The information provided by the FTC includes the weekly volume and prices for various flower types (including pompons, mini carnations, and chrysanthemums) for 1995 of the Aalsmeer and Bloemisterij. This data provides no reason for us to depart from our prior determinations that the Aalsmeer is representative of European prices.

With respect to the FTC's assertion that the volatility of U.S. prices may be due to targeted or sporadic dumping, we find that the FTC has not demonstrated this to be true. The pricing patterns in the U.S. can be ascribed to periods of peak and slack demand, whereas the relative flatness of prices in European markets is explained by the fact that Europeans purchase flowers year round.

Finally, we have not adopted the FTC's suggestion to use yearly averages in our comparisons for the same reasons we rejected Asocolflores' argument that we should use an average annual U.S. price. (See DOC Position to Comment 8.) Further, as Asocolflores has pointed out, if the volumes of peak and off-peak sales differed in U.S. and TC markets, the use of an annual average might not adjust for these differences.

Comment 19: Asocolflores and HOSA disagree with the methodology used by the Department in the Preliminary Results to calculate an annualized CV. In the Preliminary Results, the Department calculated an average per-stem CV in pesos, with the result that the CV expressed in pesos was constant throughout the POR. The Department then converted to a per-stem CV in dollars using each month's average exchange rate. This NV was compared to the monthly average CEP or EP. The Department's methodology, according to Asocolflores, is an unreasonable departure from the practice that it followed in every prior administrative review of the present case. In the Certain Fresh Cut Flowers from Colombia; Final Results of Administrative Review, 56 FR 32169 (July 15, 1991) (Flowers (87–88)), the first administrative review, the Department aggregated total costs in pesos over the POR and divided by the period average exchange rate and net units sold to calculate the per-stem CV in dollars. In later reviews, the Department totaled peso costs on a monthly basis, converted to dollars using the monthly exchange rate, added these dollar costs over the POR and divided by the net units sold to yield the per-stem CV in dollars.

Asocolflores claims that the methodology used in the Preliminary Results is inappropriate because it creates a mismatch between the exchange rate used and the costs at issue. Asocolflores argues that, due to factors such as the fluctuations in the exchange rates, the inclusion of monthly inflation adjustments and the devaluation of the Colombian peso against the U.S. dollar over the POR, the Department's methodology erroneously results in a declining CV in dollar terms throughout the POR. Asocolflores contends that no basis for the changed methodology has been disclosed and ''[f]undamental principles of fairness require the Department to abide by its prior decisions in this case,'' given that the facts upon which the Department predicated the previous methodology have not changed in the present review.

The FTC counters that the Department's underlying rationale for the methodology used in the past reviews no longer applies in this review. First, according to the FTC, inflation is not at the same high rate encountered during Flowers (87–88). Second, the FTC points out that the Department's new exchange-rate methodology of using a lagged rate where a sustained change in rates exists over a period of at least eight weeks automatically accounts for any distortive effects due to fluctuations in exchange rates. The FTC further argues that the rates during the POR in any case should be considered ''relatively stable.'' The FTC also notes that, because EP and CEP are averaged monthly, applying monthly exchange rates to the NV for purposes of comparison is also appropriate pursuant to section 773A of the Act.

DOC Position: We agree, in part, with respondents. In Flowers (87–88), we revised our methodology for converting respondents' CV from pesos to dollars. The revision was deemed appropriate in light of a combination of factors affecting this case including the high rate of inflation in Colombia, consequent devaluation of the Colombian currency, and the nature of calculating the costs to produce agricultural products. See Flowers (87–88). In *Flowers (87–88)*, we converted the POR average peso CV to dollars using the corresponding period-average exchange rate but expressed a preference for the alternative methodology of converting each month's peso costs into dollars using that month's exchange rate. *See Id.* at 32169 (''while we agree with the respondent that the monthly conversion to dollars of peso costs is the preferable methodology, in this review we have converted our period-average peso constructed value to dollars using the corresponding period average exchange rate''). In subsequent reviews, we adhered to the revised methodology used in Flowers (87–88) until Flowers (91–94), where we used the preferred alternative methodology of monthly dollar conversions.

In the present review, we have examined Asocolflores' argument and have reassessed the methodology we used in the preliminary results. We determine that the underlying factors that formed the basis of our rationale for revising the conversion methodology in Flowers (87–88)(and subsequent reviews) remain largely unchanged. We also recognize that flower production, like other agricultural production, necessitates the use of a period-average CV in order to capture the complete costs, which vary month to month, due to the production cycle of the product. *See* Flowers (87–88) at 32169.

In light of the foregoing, for these final results, we have departed from the methodology we employed in the preliminary results for converting CV in the present review. Specifically, we converted each month's cumulated costs in pesos to dollars using the corresponding month's exchange rate. Next, the monthly costs in dollars were totaled over the POR and divided by the net units sold to calculate the per-stem CV in U.S. dollars which was then converted to pesos using the period-end exchange rate. Furthermore, to correct for the distortive effects of devaluation of the Colombian peso, we used a monthly deflator (which was calculated by dividing the period-end exchange rate over each month's exchange rate) to deflate the per-stem CV in pesos for each month. The corrected peso CV was then converted to dollars using each month's exchange rate pursuant to section 773A(a) of the Act, which requires that foreign currencies be converted into U.S. dollars using the exchange rate in effect on the date of sale of the subject merchandise. The effect of this methodology is to create a CV which, when denominated in pesos, increases over the POR. This result is consistent with an economy that is experiencing high levels of inflation.

With respect to the FTC's arguments, we disagree that inflation was low enough or the exchange rate stable enough that we should continue with the methodology we followed in the Preliminary Results. Regarding the use of lagged exchange rates when there is a sustained movement in the currency, the provision for sustained changes applies only to investigations and not to reviews.

Comment 20: HOSA and Asocolflores argue that the Department is statutorily required to allocate costs across all subject flowers, including ''national quality'' flowers, when calculating CV. Their argument is largely based on the 1992 opinion of the CAFC in *IPSCO, Inc.* v. *United States,* 965 F.2d 1056 (*IPSCO*), and on recent Department case history. First, HOSA and Asocolflores claim that *IPSCO* is definitive on how costs are to be allocated: costs must be allocated across all goods produced, regardless of their respective values. They interpret *IPSCO* to mean that no matter how the Department categorizes a ''secondary'' product (*i.e.,* as a co-product or a by-product), if the production of that product expended the same materials, capital, labor, and overhead as the production of the ''primary'' product, then both the primary and secondary products must share the costs equally. Furthermore, respondents argue that any value-based allocation violates the AD statute as interpreted by *IPSCO.* Even if the Department finds non-export quality flowers to have little, or no, commercial value, these culls must still carry costs. Second, although respondents argue that *IPSCO* has made by-product and co-product distinctions irrelevant, they say that if the Department insists upon using such classifications, then second-quality flowers should be co-products to which costs of production should be allocated. They state that non-export-quality flowers must be considered co-products because they are very similar to the primary product, their production expends the same material, capital, labor, and overhead, and they are produced in the same manufacturing lot as export-quality flowers.

The FTC states that respondents' arguments regarding national quality flowers have been raised before and rejected by the Department. Referring to Fresh Cut Roses from Colombia, 60 FR 6980 (February 6, 1995) (Roses from Colombia) and Flowers (91–94), the FTC says that the Department should adhere to its precedent of treating national quality flowers as by-products.

DOC Position: We have continued to treat culls and national quality flowers as by-products in this review. This practice, at least with respect to culls, has been followed since Flowers (LTFV) and was upheld by the CIT in *Asociacion Colombiana de Exportadores* v. *United States,* 704 F. Supp. 1114, 1125–26 (CIT 1989). In Flowers (91–94), we examined HOSA's claim that ''national'' or ''second quality'' flowers should not be treated as by products. We disagreed with HOSA and treated national quality flowers as culls.

As explained in Flowers (91–94) (at 42850), our general practice in cases involving agricultural goods has been to treat ''reject'' products as by-products and to offset the total cost of production with revenues earned from the sale of any such ''reject'' products. We continue to believe that this general practice does not conflict with CAFC's ruling in *IPSCO.* Clearly, culls are reject products. Moreover, as the Department stated in Flowers (LTFV), due to the perishability of agricultural products, the sellers of such merchandise ''may be faced with the choice of accepting whatever return they can obtain on certain sales or destroying the merchandise. Unlike non-perishable products, sellers cannot withhold their flowers from the market until they can obtain a higher price.'' Similarly, when the product is not of a high enough quality to be exported, it is a cull that immediately faces whatever price can be obtained in the home market, or destruction. This situation does not resemble that in *IPSCO.*

Comment 21: Asocolflores asserts that, if the Department does not allocate costs across all export-quality flowers and culls, the Department should at least offset the cost of production by the revenue earned on the sale of culls. In particular, Asocolflores wants the Department to include off-book revenue when making this deduction, not just the revenue recorded in the books.

The FTC disagrees with Asocolflores because off book revenue is unproven and inherently suspect. Since off-book revenue can not be corroborated by an audited financial statement or tax return, the FTC contends that the Department should not accept this type of information.

DOC Position: We agree with the FTC. We do not take account of off-book revenue because it is not reflected in the company's audited financial statements, our primary tool for determining the accuracy and completeness of respondents' submitted data. (See Roses from Colombia.) Absent specific evidence to the contrary, the Department considers a company's financial statements to reflect the actual expenses/revenues of its operations. (See Final Determination of Sales at Less Than Fair Value; Sweaters Wholly or in Chief Weight of Man-Made Fiber From Taiwan, 55 FR 34585 (August 23, 1990).)

Comment 22: Tuchany notes that the Department discovered at verification that the company had incorrectly reported depreciation expense by making the inflation adjustment to the accumulated depreciation balance instead of the depreciation expense during the POR. Tuchany argues that this error substantially overstated costs because the reported amount encompasses all historical inflation adjustments to depreciation, not simply those associated with the POR. Tuchany asks the Department to rely upon worksheets submitted at verification which, it contends, can be used to derive the inflation adjustment to depreciation expense.

The FTC contends that the Department should not allow Tuchany to submit new factual information during verification.

DOC Position: At verification, we discovered that Tuchany had incorrectly calculated its depreciation expense in its response. Company officials prepared a worksheet in an effort to provide the Department with the information necessary to correct this error. This information had not been reviewed prior to verification and, while we were able to trace certain information to source documents, we were unable to thoroughly review the validity of the calculations during verification due to time constraints. We indicated to company officials that we would take the information but that we would need to review it and would not necessarily take it into consideration for purposes of our final calculations. Upon review of the data in the worksheets, we discovered that the information was not adequate to correct Tuchany's reported depreciation expense. See Tuchany Group Verification Report, May 6, 1997, p. 14. Thus, we were unable to determine the correct figure although we did conclude that the reported figure for depreciation expense was in error. Because we were unable to verify the data in the worksheets we have resorted to FA in accordance with section 776(a) of the Act. We have continued to use the reported figure in our final calculations as we consider it the best estimate available to us of the correct amount for depreciation expense.

Comment 23: Asocolflores and HOSA contend that the Department erred in not making an adjustment to financial expenses for net ''monetary correction'' while adjusting respondents' depreciation and amortization costs to account for the effects of inflation. Asocolflores states that the adjustment for ''monetary correction,'' which represents the net gain or loss to the company caused by inflation on its net exposed monetary assets and liabilities, is required by Colombian law and generally accepted accounting principles (GAAP) as part of the inflation adjustment. Moreover, the Department's failure to consider the adjustment for net monetary correction leads to significant distortions in the calculation of CV, according to Asocolflores.

Asocolflores argues that financial costs must be adjusted from nominal pesos to current value pesos because the costs incurred by a company in the current period but not payable until later periods, such as accounts payable and peso loan balances, will be paid in the future when the pesos will be cheaper in current value terms. Asocolflores claims that the Department's methodology results in a distorted cost calculation that mixes nominal pesos for some costs with inflation adjusted, current value pesos for other costs.

According to Asocolflores, section 773(f)(1)(A) of the Act ''requires the Department accept costs as recorded under Colombian GAAP unless it makes a specific finding that such costs are distortive.'' Asocolflores further refers to the CIT's holding in *Laclede Steel* v. *United States*, 18 CIT 965 (CIT, Oct. 12, 1994), where it was ruled that ''a respondent could not report costs such that one item of costs (depreciation expenses in that case) was subjected' to accounting principles different from those applied to other variables such as financing costs.' '' Asocolflores contends that the Department's methodology violates the Act and the court's holding in that it subjects only *one* cost variable—depreciation and amortization expense—to adjustment for inflation. Asocolflores argues the Department must either disregard all inflation adjustments or include inflation adjustments for monetary correction.

Furthermore, Asocolflores argues that the exclusion of monetary correction is a departure from the Department's own precedents. Specifically, Asocolflores cites to *Cement from Mexico* and Porcelain-on-Steel Cookware from Mexico, 61 FR 54616 (1996), where, in accordance with Mexican GAAP principles, the Department allowed the monetary correction gain as an offset to financial expenses. Asocolflores also refers to two Brazilian cases, *Aimcor, Ala. Silicon, Inc.* v. *United States*, Slip Op. No. 95–130, 1995 WL 431186 (CIT, July 20, 1995) and Frozen Concentrated Orange Juice from Brazil, 52 FR 8324 (1987), where the monetary correction adjustments to financial expenses were made in accordance with the Department's own hyperinflationary-economy methodology.

The FTC counters that the Department's rejection of the monetary correction adjustments is in accordance with past precedents. The FTC refers to Roses from Colombia at 6993, where the Department specifically declined to include inflation adjustments resulting from the annual revaluation of non-monetary assets because the adjustment ''merely reflects an increase to respondent's financial statement equity due to the restatement of non-monetary assets to account for inflation.'' The FTC also contends that Cement from Mexico is distinguishable in that the Mexican inflation adjustment ''pertained solely to monetary assets and liabilities whereas the Colombian monetary correction is an adjustment to non-monetary assets.'' Furthermore, the FTC points out that the Mexican adjustment was the sum of all corrections to financial expenses made throughout the year. In contrast, the FTC argues, the Colombian monetary correction is simply a year-end adjustment, thus having no effect on the amounts borrowed or lending rates of the respondents.

DOC Position: We disagree with Asocolflores. Consistent with our practice in Flowers (91–94), we have included adjustments for the effects of inflation in respondents' depreciation and amortization expense figures in calculating CV. We have continued to exclude the amount of monetary correction income that respondents claimed as an offset to costs.

As discussed in the final results of Flowers (91–94), we adjusted respondents' depreciation expenses in order to permit a more appropriate matching of costs and prices based on equivalent currency units. The Department's practice in AD cases involving countries whose economies are marked by price level changes defined as ''hyperinflationary'' is to adjust *all* production costs for the effects of inflation. See, *e.g.*, Flowers (91–94) at 42845. In some instances, however, the level of inflation during the POR does not reach the Department's normal hyperinflation threshold. Nonetheless, where an economy has experienced the compound effects of significant inflation levels in periods prior to the POR, the costs associated with respondent's fixed assets, as well as other assets recorded at their historical purchase, may be materially misstated relative to the currency levels at which prices and costs are measured during the POR. In these instances, the Department may adjust the historical basis of fixed assets such that respondent's depreciation and amortization costs reflect the currency levels of the POR. See Roses from Colombia.

Unlike in hyperinflationary cases, however, the Department's practice with respect to inflation and its effects on historical costs does not specifically adjust for all of the inflationary effects that occur within the POR. Rather, these effects result from the inflation experienced within the twelve months of the POR and, thus, are considered to have a minimal influence on the Department's antidumping analysis. To attempt to quantify the effects of inflation on each measure of cost and price would impose an unreasonable level of complexity to the Department's antidumping analysis.

Consequently, we have left financial expenses unadjusted because these expenses were contained largely within the POR. In contrast, the expenses for depreciation and amortization are based on the historical costs of assets which extend beyond each POR. Compounded annually, the effect of inflation results in a distortion of historical depreciation and in an understatement of costs.

As to Asocolflores' argument that the inclusion of net monetary correction is required under the Colombian GAAP and the Act, we note that there is no statutory requirement that the Department adjust for all effects of inflation in its analysis nor a requirement to use *all* aspects of a country's GAAP. Rather, the statute merely requires that the Department include in its calculation of CV the cost of manufacturing ''which would ordinarily permit the production of the merchandise in the ordinary course of business.'' See section 773(e)(1) of the Act. Moreover, the CIT has already held that full accounting for inflation is neither necessary nor possible. (See *Budd Co.* v. *United States*, 773 F. Supp. 1549, 1554 (CIT 1991) (''The glowing deficiency in Plaintiff's argument is the underlying premise that a full accounting for inflation is necessary or even possible.'')

We also find that Asocolflores' reliance on the two Mexican cases is misplaced. There is no evidence on the record indicating that inflationary accounting under Mexican GAAP is the same as inflationary accounting in Colombia. Similarly, the two Brazilian cases cited by Asocolflores are distinguishable in that inflation rates in Brazil during those periods were at hyperinflationary levels, as defined by the Department, and therefore the Department relied on a replacement cost methodology to adjust all costs for the effects of inflation.

Comment 24: Asocolflores contends that the Department erroneously attributed all net interest expense to production. Asocolflores argues that, in addition to financing the assets used in production, interest expense reported by respondent companies also relates to financing receivables for TC and U.S. sales. Asocolflores contends that the Department departed from past practice and effectively presumed that the totality of the producer's borrowing costs were attributable to production. Asocolflores urges the Department to revert to its prior practice and include in its calculation of CV only that portion of the net interest expense allocable to assets other than accounts receivable.

Asocolflores recognizes that the Department has changed its practice of adding imputed credit expense to CV to avoid double-counting. However, Asocolflores argues that interest expenses associated with sales should not be included in CV at all because such interest expenses do not relate to production as required by section 773(e)(1). Moreover, Asocolflores asserts, for the Colombian flower growers in the case the actual interest expense for home market sales is zero.

The FTC rebuts that section 773(e)(2) requires that SG&A be added to production expenses when computing CV, so the exercise of identifying which costs are production-related and which are sales-related is academic. The FTC further argues that, in calculating CV, the Department allocates interest expense to all export-quality stems sold, so any interest expense related to TC sales has effectively been allocated to such sales. Finally, the FTC argues that respondents have provided no evidence that some portion of their interest costs relate to markets other than the U.S. market and no evidence that any portion of their financing expenses relate to sales rather than to production. The FTC argues that there is no basis for assuming that the ratio of accounts receivable to total assets has any relationship to the ratio of selling interest costs to total interest costs. The FTC contends that accounts receivable are commonly financed out of cash-flow and payables rather than through borrowing.

DOC Position: In calculating CV, the Department considers net interest expense to be a part of SG&A and, in accordance with section 773(e), the Department's practice is to include the actual amount of net interest expense as part of the cost of the product. The amount of net interest expense for CV is calculated as a ratio. The numerator in this ratio is the total actual amount of net interest expense incurred by respondent and the denominator is the respondent's cost of sales. The result of this ratio calculation is then applied to the per-unit cost of manufacture for the merchandise in order to derive the allocated amount of interest expense associated with the product.

Contrary to respondent's claims in this case, the interest expense calculation described above does not attribute all net interest expense to production. Rather, it is the Department's long-standing method of calculating net interest expense on a per-unit basis for CV. Under the new statute, however, because interest expense for CV is to be based on actual and not imputed amounts, it is no longer appropriate to do as Asocolflores suggests and reduce actual interest expense in order to replace it with imputed amounts for credit. Any differences in credit expense between the U.S. and foreign market are taken into account as a circumstance of sale adjustment, but not as part of the actual calculation of net interest incurred for the product. See e.g., Notice of Final Results of Antidumping Duty Administrative Review; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom, 62 FR 18744, 18746 (April 17, 1997).

Comment 25: HOSA asserts that the Department used the wrong general and administrative expense (G&A) rate for flowers that a member of the HOSA Group purchased from other producers and used in its bouquet operation. HOSA argues that it did not incur any G&A expense associated with flowers it did not grow. HOSA further states that, if the Department insists upon calculating G&A for purchased flowers, it should use the G&A rate for the farm that purchased the flowers and used them in its bouquet operation. This G&A rate, asserts HOSA, should be taken from the farm's 1995 audited financial statements, as provided in the questionnaire response.

The FTC argues that HOSA must incur some G&A expenses in the areas of marketing and selling bouquets, not to mention the purchase of flowers and the assembly of bouquets. Moreover, in the FTC's view, there is no basis to limit the G&A expenses to one single farm. Thus, the FTC argues that the Department should continue to follow the approach used in the preliminary results.

DOC Position: We disagree with HOSA. As stated in the Suspension of Antidumping Duty Investigation: Sodium Azide from Japan, 62 FR 973, 977 (January 7, 1997), ''G&A expenses are those expenses incurred for the operation of the corporation as a whole and not directly related to the manufacture of a particular product.'' The Department's practice is to calculate G&A expenses by finding the ratio of the company's total G&A expenses relative to the total cost of goods sold by the company. This ratio is then applied to the cost of manufacture of each product. Furthermore, this approach is consistent with our approach with respect to other collapsed companies for which we have allocated G&A expenses. In this instance, the products in question are those flowers (subject merchandise) acquired and used in the production of bouquets. Although HOSA does not grow these flowers, it does use them in further processing. There is no evidence that HOSA would purchase and resell these flowers if they were not used in bouquet production. Because the production and selling of bouquets generates G&A expenses, the items making up the bouquets incur G&A expenses.

The HOSA Group's contention that the Department should use only the G&A expenses generated by the member of the group which purchased the subject merchandise is not reconcilable with the Department's practice concerning "collapsed" companies. Once the Department has determined to collapse affiliated producers (*i.e.*, to assign a single AD rate to the producers because of, *inter alia*, close interrelationships between them) the group is treated as one single company with respect to reporting obligations. We do not allow companies to pick and choose which G&A expenses and which divisions of the company will be used in accounting for this expense. The same holds true for the HOSA Group and, thus, every product produced by HOSA, regardless of which farm produced it, incurs allocated G&A expenses generated by the entire group.

Comment 26: The Tinzuque Group (Tinzuque) argues that the Department erred in disregarding all reported offsets to SG&A. Tinzuque concedes that certain reported offsets were derived from non-operating income accounts and are, therefore, not appropriate offsets to cost. Tinzuque contends, however, that among the reported offsets are commercial discounts obtained on material purchases, which are appropriate offsets to cost. Tinzuque points out that sample invoices and accounting slips submitted in its February 21, 1997 supplemental response demonstrate the nature of these discounts.

The FTC argues that there is no evidence on the record to demonstrate that the amount reported for commercial discounts is related exclusively to material purchases related to subject merchandise. The FTC further contends that discounts on material inputs would not normally be accounted for in SG&A accounts, thereby casting additional doubt on the nature of these discounts.

DOC Position: We agree with Tinzuque. The sample accounting slips submitted by Tinzuque demonstrate that the commercial discounts in question were obtained on material purchases. Moreover, there is no indication that the materials were used as inputs for other than subject merchandise. Therefore, we have accepted Tinzuque's claim and have offset its costs accordingly.

Comment 27: Asocolflores argues that the Department's use of the profit rate of Compania Nacional de Chocolates S.A. (CNC), a Colombian producer of chocolate and other processed agricultural products, as FA in the calculation of CV is inconsistent with the Act. Asocolflores argues that the "profit cap" described in section 773(e)(2)(B)(iii) of the Act contains no exceptions or conditions and its application is mandatory. Specifically, Asocolflores contends that the Department should use a profit rate of zero since none of the responding companies had profits on sales of flowers in the home market. Asocolflores argues that there is no requirement that only sales made in the ordinary course of trade or above cost are to be considered when calculating the profit cap.

Asocolflores contends that the Department misinterpreted language in the SAA that allows exceptions to the application of the profit cap "due to the absence of data." Here, Asocolflores argues, there is no absence of data; the data merely indicates that the profit rate is zero. Asocolflores argues that, in Shop Towels from Bangladesh; Final Results of Antidumping Duty Administrative Review, 61 FR 55957 (October 30, 1996) (Shop Towels), the Department included zero profit for the two textile companies that had shown losses in deriving an average of three profit rates to be used in calculating CV.

Asocolflores further argues that the use of CNC's profit rate is inconsistent with the purpose of the statute and due process. Asocolflores argues that the rate used by the Department in its preliminary results was arbitrary, unpredictable and random. Asocolflores argues that there is not even a pretense of foreseeability or predictability, and, accordingly, under such a system, respondents have no basis on which to price their product to avoid dumping.

The FTC responds that the Department properly concluded that there was insufficient basis for computing a profit cap in accordance with section 773(e)(2)(B)(iii). The FTC argues that sales in the home market of merchandise in the same general category as flowers would necessarily include sales of culls. Since culls are treated as byproducts in the Department's calculations and are assigned a cost basis of zero, the FTC argues that the profit rate on such sales would be infinite.

The FTC further argues that the Department correctly interpreted the statute and SAA in determining that profit must be a positive amount. The FTC agrees with the Department's interpretation of the wording in the SAA at 169 that CV "must include an amount * * * for profit" as meaning that there must be a positive number. The FTC cites to the passage in the SAA at 170 indicating that the administration does not believe the elimination of statutory minimums will diminish the ability of domestic industries to obtain relief under the AD law.

DOC Position: Contrary to Asocolflores' assertion, we are required to add a positive amount for profit when calculating CV. Although the URAA eliminated the use of a minimum profit rate, the presumption of a profit element in the calculation of CV was not eliminated. The SAA (at page 169) states: "Because constructed value serves as a proxy for a sales price, and because a fair sales price would recover SG&A expenses and would include an element of profit, constructed value must include an amount for SG&A expenses and for profit."

With respect to Asocolflores' argument that a zero rate of profit would be consistent with Shop Towels, we disagree. An average that includes some zeroes but still yields a positive number, as was the case in Shop Towels, is different from using a profit rate of zero.

By providing three alternative methodologies for calculating CV profit in section 773(e)(2)(b), the statute enables the Department to use an overall positive profit rate whenever the calculation of CV profit under 773(e)(2)(A) is not appropriate. In Silicomanganese from Brazil; Final Results of Antidumping Duty Administrative Review 62 FR 37869, 37877 (July 15, 1997), the Department stated, "if a company has no home market profit or has incurred losses in the home market, the Department is not instructed to ignore the profit element, include a zero profit or even consider the inclusion of a loss; rather, the Department is directed to find an alternative home market profit."

Since there is no information on the record that would enable us to calculate a home market profit rate on the same general category of merchandise as flowers, we have continued to use CNC's profit rate, for reasons detailed in a memorandum from team to Richard Moreland, Acting Deputy Assistant Secretary, AD–CVD Enforcement 1, dated March 31, 1997 (on file in room B–099 in the Central Records Unit of the Department of Commerce). We disagree with Asocolflores' assertion that we have information on the record to calculate a profit cap. As Asocolflores has stated, the only information on the record indicates that sales of flowers in Colombia are not profitable. As discussed above, a profit rate of zero is not appropriate for use in calculating CV; therefore, we do not have appropriate information to use as the basis for a profit cap. Accordingly, we have applied alternative (iii) on the basis of ''the facts available,'' as instructed by the SAA at 171.

We further disagree with Asocolflores' contention that the application of a profit rate based on non-adverse FA is contrary to the intent of the statute and violates respondents' due process. As detailed above, the application of a zero profit rate would have been contrary to the intent of the statute. In carrying out the intent of the statute in a reasonable manner, respondents' due process is being served. Asocolflores has had the opportunity to comment on the Department's methodology.

Comment 28: The FTC argues that the Department's use of CNC's profit rate in the preliminary results was not the best choice among the alternatives available to the Department. The FTC argues that CNC is in the processed agricultural goods industry and, as such, does not face the same perishability risks as a flower producer. The FTC admits to the paucity of financial information available regarding Colombian companies but suggests that the Department use the rate of return on equity of Banco Ganadero, a Colombian bank that makes approximately one quarter of its loans to the agricultural sector. The FTC suggests that, while this financial information would be derivative since it is based on return on equity of a financial institution, it is a better gauge of Colombian agriculture than a chocolate producer.

Asocolflores responds that the rate of return on equity for a Colombian bank is not at all analogous to the profit rate of a Colombian flower exporter. Asocolflores contends that a rate of return on equity is not a profit margin and that the statute requires the use of profit, not return on equity. Additionally, Asocolflores argues that a bank's products are financial instruments, not agricultural products.

DOC Position: We agree with Asocolflores that the rate of return on equity of a financial institution is not appropriate for this case. While we were unable to locate a profit rate on home-market sales for a Colombian producer of merchandise in the general category as flowers, we determine that the use of the profit rate of CNC, a Colombian producer of processed agricultural goods is more appropriate than the rate of return on equity of a Colombian bank. Accordingly, we have continued to use CNC's profit rate as FA in calculating CV profit.

Comment 29: Asocolflores claims that, where appropriate, the adjustment from gross units sold to net units sold to account for returns should be made on an annual basis over all importers purchasing from the same exporter rather than on a monthly basis by importer.

DOC Position: We agree in part. Returns from a given month often are not reported and claimed by the importer until the following month. If a large number of returns from the prior month happened to be reported and claimed in the current month, the NV for the current month after adjustment for returns would be overstated. Therefore, for the final results, we took the total number of returns made during the POR by a particular importer and allocated this total to each month of the POR based on the gross number of stems sold in each month.

We disagree, however, with averaging returns over importers. In calculating net units sold, we have not averaged returns over all the importers purchasing from a particular exporter. Returns are dependent on a number of factors including the handling and warehousing practices of the importer and the distance from the grower to the importer. These factors are directly related to the particular importer under consideration and directly affect the returns from that importer. For this reason, the margin calculations should reflect the actual number of returns from that importer rather than the average number of returns over all importers. Thus, for the final results, we used the actual number of returns by each importer in calculating an adjustment to the NV for each importer because returns clearly and directly relate to the operating practices of individual importers.

Assessment

Comment 30: Asocolflores contends that the Department incorrectly calculated the amount of AD duties to be assessed on individually reviewed (or ''selected'') companies. In particular, Asocolflores objects to the Department's reliance on U.S. Customs' posted prices for the calculation of entered value for carnations. Ascolflores contends that use of the posted prices will result in a potential overassessment of AD duties. Asocolflores suggests that the Department recalculate entered value using the data provided by respondents and, where necessary, obtain further information from respondents. Alternatively, Asocolflores suggests calculating specific duties based on the quantity of flowers shipped during the POR.

The FTC states that the Department properly relied upon Customs' posted values to calculate AD duty assessments. The FTC argues that, because Customs will liquidate entries using posted values as the entered values, the use of entered values reported by respondents would be incorrect. The FTC further questions the reliability and correctness of the entered value data supplied by respondents.

DOC Position: For these final results, we have calculated the amount of duties to be assessed on a per-stem basis. We were unable to use entered values because respondents reported average monthly prices and, moreover, the entered values were not associated with particular importers. Since assessments are made on an importer specific basis, aggregate entered values could not be used. Although we have calculated a per-stem rate for assessment purposes, we will apply an *ad valorem* rate for duty deposit purposes.

Comment 31: Asocolflores states that the Department incorrectly used the average cash deposit rate for selected respondents as the assessment rate for those companies that responded but were not selected for review (''non-selected respondents''). Asocolflores contends that the Department should use the weighted-average assessment rate rather than the average cash deposit rate and that any difference in methodology between selected and non-selected respondents violates the equal protection clause of the United States Constitution.

The FTC argues that the Department properly based assessment rates for non-selected companies on the duty deposit rates. In the FTC's view, the Department's approach to assessment was reasonable and there is no reason to prefer the weighted-average assessment rate of selected respondents to their duty deposit rate.

DOC Position: For these final results, we have calculated an average per-stem rate to apply to non-selected respondents for assessment purposes. We have calculated this rate by summing the AD duties owed by the selected companies and dividing that amount by the number of stems entered by the selected companies. (As explained below, in connection with the assessment instructions, we have used stems entered during the POR rather than stems sold, because of the perishable nature of the subject merchandise.) Although we disagree with Asocolflores that the methodologies for the two groups of companies must be the same in all respects, for assessment purposes we believe that this approach yields the most accurate results.

Other

Comment 32: The FTC argues in its rebuttal brief that Tuchany should not be allowed to rewrite its response during verification.

DOC Position: In the course of verification, certain minor errors in Tuchany's questionnaire response were discovered. Generally, the company was able to correct these errors and the Department requested that these corrections be submitted for the record. The errors were also identified in our verification report. The errors made by Tuchany were not of such a magnitude as to warrant the conclusion that Tuchany had failed verification.

Comment 33: Flores el Talle argues that it is part of the Flores Colombianas Group, a group for which the AD order has already been revoked. Therefore, Flores el Talle claims, it should not be subject to either the assessment or cash deposit rate determined for non-selected respondents. Instead, asserts Flores el Talle, the Department should determine that it is part of the Flores Colombianas Group and is covered by the Flores Colombians Group's revocation.

DOC Position: We have determined that there were no entries of subject merchandise under the name Flores el Talle during the POR. Therefore, we have rescinded the review with respect this company (*see* the ''Rescission'' section of this notice). In addition, we will initiate a changed circumstances review in order to determine whether Flores el Talle is covered under the revocation granted to Flores Colombianas.

Final Results of Review

Selected Respondents

As a result of our review, we determine the following percentage weighted-average margins to exist for the March 1, 1995 through February 29, 1996:

	Percent
Agrodex Group	1.30
Agricola de las Mercedes	
Agricola el Retiro Ltda.	
Agrodex Ltda.	
Degaflores Ltda.	
Flores Camino Real Ltda.	
Flores Cuatro Esquinas Ltda.	
Flores de la Comuna Ltda.	
Flores de las Mercedes	
Flores de Los Amigos Ltda.	
Flores de los Arrayanes Ltda.	
Flores De Mayo Ltda.	
Flores del Gallinero Ltda.	
Flores del Potrero Ltda.	
Flores dos Hectareas Ltda.	
Flores de Pueblo Viejo Ltda.	
Flores el Trentino Ltda.	
Flores la Conejera Ltda.	
Flores Manare Ltda.	
Florlinda Ltda.	
Horticola el Triunfo	
Horticola Montecarlo Ltda.	
Caicedo Group	8.36
Agro Bosque S.A.	
Andalucia S.A.	
Aranjuez S.A.	
Columbiano S.A. ''CAICO''	
Caico	
Exportaciones Bochica S.A.	
Floral Ltda.	
Flores del Cauca	
Inversiones Targa Ltda.	
Productos el Zorro	
Via el Rosal	
Claveles Colombianos Group	0.39
Claveles Colombianos Ltda.	
Elegant Flowers Ltda.	
Fantasia Flowers Ltda.	
Splendid Flowers Ltda.	
Sun Flowers Ltda.	
Cultivos Miramonte Group	1.05
Cultivos Miramonte S.A.	
Flores Mocari S.A.	
Floraterra Group	8.36
Exporosas	
Floraterra S.A.	
Flores Casablanca S.A.	
Flores San Mateo S.A.	
Siete Flores S.A.	
Flores Colon Ltda.	2.84
Florex Group	0.73
Agricola Guacari S.A.	
Agricola el Castillo	
Flores San Joaquin	
Flores Altamira S.A.	
Flores de Exportacion S.A.	
Guacatay Group	1.53
Agricola Cunday	
Agricola Guacatay S.A.	
Jardines Bacata Ltda.	
Hosa Group	2.07
Horticultura de la Sabana S.A.	
HOSA Ltda.	
Innovacion Andina S.A.	
Minispray S.A.	
Prohosa Ltda.	
Maxima Farms Group	3.25
Agricola los Arboles S.A.	
Colombian D.C. Flowers	
Polo Flowers	
Rainbow Flowers	
Maxima Farms Inc.	
Queens Flowers Group	1.13
Agroindustrial del Rio Frio	
Cultivos General Ltda.	
Flora Nova	
Flora Atlas Ltda.	
Flores Calima S.A.	
Flores Canelon Ltda.	
Flores de Bojaca	
Flores del Cacique	
Flores del Hato	
Flores el Aljibe Ltda	
Flores el Cipres	
Flores El Pino Ltda.	
Flores El Roble S.A.	
Flores el Tandil	
Flores la Mana	
Flores las Acacias Ltda	
Flores la Valvanera Ltda.	
Flores Jayvana	
Flores Ubate Ltda	
Jardines de Chia Ltda.	
Jardines Fredonia Ltda.	
Jardines Piracanta	
M.G. Consultores Ltda.	
Mountain Roses	
Queens Flowers de Colombia Ltda.	
Quality Flowers S.A.	
Florval S.A. (Floval)	
Jardines des Rosal	
Tinzuque Group	1.05
Tinzuque Ltda.	
Catu S.A.	
Tuchany Group	5.73
Tuchany S.A.	
Flores Sibate	
Flores Tikaya	
Flores Munya	

Non-Selected Respondents

The following 147 companies (including 23 groups of companies) were not selected as respondents and will receive a rate of 2.26 percent:

Aga Group
Agricola la Celestina
Agricola la Maria
Agricola Benilda Ltda.
Agricola Acevedo Ltda.
Agricola Arenales Ltda.
Agricola Bonanza Ltda.
Agricola Circasia Ltda.
Agricola el Cactus S.A.
Agricola el Mortino Ltda.
Agricola el Redil Ltda.
Agricola la Corsaria Ltda.
Agricola Las Cuadras Group
Agricola las Cuadras Ltda.
Flores de Hacaritama
Agricola Megaflor Ltda.
Agroindustrial Don Eusebio Ltda. Group
Agroindustrial Don Eusebio Ltda.
Celia Flowers
Passion Flowers
Primo Flowers
Temptation Flowers
Andes Group
Cultivos Buenavista Ltda.
Flores de los Andes Ltda.
Flores Horizonte Ltda.
Inversiones Penas Blancas Ltda.
Aspen Gardens Ltda.
Astro Ltda.
Cantarrana Group
Cantarrana Ltda.
Agricola los Venados Ltda.
Cigarral Group
Flores Cigarral
Flores Tayrona
Claveles de los Alpes Ltda.
Colibri Flowers Ltda.
Combiflor
Cultiflores Ltda.
Cultivos Medellin Ltda.

Cultivos Tahami Ltda.
Daflor Ltda.
El Antelio S.A.
Envy Farms Group
  Envy Farms
  Flores Marandua Ltda.
Falcon Farms de Colombia S.A. (formerly Flores de Cajibio Ltda.)
Farm Fresh Flowers Group
  Agricola de la Fontana
  Flores de Hunza
  Flores Tibati
  Inversiones Cubivan
Floralex Group
  Floralex Ltda
  Flores el Puente Ltda.
  Agricola Los Gaques Ltda
Floreales Group
  Floreales Ltda.
  Kimbaya
Florenal (Flores el Arenal) Ltda.
Flores Agromonte
Flores Ainsuca Ltda.
Flores Aurora Ltda.
Flores Carmel S.A.
Flores Comercial Bellavista Ltda.
Flores de Aposentos Ltda.
Flores de la Hacienda
Flores de la Montana
Flores de la Vega Ltda.
Flores de la Vereda
Flores de Serrezuela S.A.
Flores de Suba Ltda.
Flores del Lago Ltda.
Flores del Rio Group
  Agricola Cardenal S.A.
  Flores del Rio S.A.
  Indigo S.A.
Flores del Salitre Ltda.
Flores de Oriente
Flores el Lobo
Flores el Molino S.A.
Flores el Zorro Ltda.
Flores Fusu
Flores Gioconda
Flores Juanambu Ltda.
Flores la Fragrancia
Flores las Caicas
Flores los Sauces
Flores la Union/Gomez Arango & Cia.
Flores Monserrate Ltda.
Flores Sagaro
Flores San Andres
Flores San Juan S.A.
Flores Santa Fe Ltda.
Flores Silvestres
Flores Tocarinda
Flores Tomine Ltda.
Flores Tropicales (Happy Candy) Group
  Flores Tropicales Ltda.
  Happy Candy Ltda.
  Mercedes Ltda.
  Rosas Colombianos Ltda.
Floricola la Gaitana S.A.
Fresh Flowers
Funza Group
  Flores Alborada
  Flores de Funza S.A.
  Flores del Bosque Ltda.
  Flexport de Colombia
Grupo el Jardin
  Agricola el Jardin Ltda.
  La Marotte S.A.
  Orquideas Acatayma Ltda.
Industrial Agricola
Ingro Ltda.
Inverpalmas
Inversiones Flores del Alto
Inversiones Morrosquillo
Inversiones Santa Rita Ltda.
Inversiones Santa Rosa ARW Ltda.
Inversiones Supala S.A.
La Plazoleta Ltda.
Las Amalias Group
  Las Amalias S.A.
  Pompones Ltda.
  La Fleurette de Colombia Ltda.
  Ramiflora Ltda.
Linda Colombiana Ltda.
Los Geranios Ltda.
Manjui Ltda.
Monteverde Ltda.
Natuflora Ltda./San Martin Bloque B
Papagayo Group
  Agricola Papagayo Ltda.
  Inversiones Calypso S.A.
Petalos de Colombia Ltda.
Pisochago Ltda.
Rosas Sabanilla Group
  Flores la Colmena Ltda.
  Rosas Sabanilla Ltda.
  Inversiones la Serena
  Agricola la Capilla
Sabana Group
  Flores de la Sabana S.A.
  Roselandia S.A.
Santana Flowers Group
  Santana Flowers Ltda.
  Hacienda Curibital Ltda.
  Inversiones Istra Ltda.
Santa Rosa Group
  Flores Santa Rosa Ltda.
  Floricola la Ramada Ltda.
  Agropecuaria Sierra Loma
Senda Brava Ltda.
Shasta Flowers y Compania Ltda.
Soagro Group
  Flores Aguaclara Ltda.
  Flores del Monte Ltda.
  Flores la Estancia
  Jaramillo y Daza
Toto Flowers Group
  Flores de Suesca S.A.
  Toto Flowers
Uniflor Ltda.
Velez de Monchaux Group
  Velez De Monchaux e Hijos y Cia S. en C.
  Agroteusa
  Flores Suasuque
Victoria Flowers
Vuelven Ltda.

No Shipments

The following 62 companies did not ship subject merchandise during the POR. Therefore, as described in the ''Rescission'' section above, we are rescinding the review with respect to the following firms:

Abaco Tulipanex de Colombia
Agrex de Oriente
Agricola Guali S.A.
Agricola Yuldama
Agroindustrial Madonna S.A.
Agrorosas
Agropecuria Cuernavaca Ltda.
Bojaca Group
  Agricola Bojaca
  Universal Flowers
  Flores y Plantas Tropicales
  Flores del Neusa Nove Ltda.
  Tropiflora
Cienfuegos Group
  Cienfuegos Ltda.
  Flores la Conchita
De La Pava Guevara E Hijos Ltda.
Disagro
Elite Flowers (The Elite Flower/Rosen Tantau)
Expoflora Ltda.
Flor y Color
Flora Intercontinental
Florandia Herrera Camacho & Cia.
Flores Acuarela S.A.
Flores Aguila
Flores Andinas Ltda.
Flores de Tenjo Ltda.
Flores del Campo Ltda.
Flores el Rosal Ltda.
Flores el Talle Ltda.
Flores Galia Ltda.
Flores Gloria
Flores Juncalito Ltda.
Flores la Lucerna
Flores la Macarena
Flores Ramo Ltda.
Flores Sairam Ltda.
Flores San Carlos
Flores Selectas
Flores Violette
Florexpo
Florimex Colombia Ltda.
Green Flowers
Horticultura el Molino
Inversiones Almer Ltda.
Inversiones Bucarelia
Inversiones Cota
Inversiones el Bambu Ltda.
Inversiones Morcote
Inversiones y Producciones Tecnicas
Iturrama S.A.
Las Flores
Luisa Flowers
Otono (Agroindustrial Otono)
Planatas S.A.
Plantaciones Delta Ltda.
Propagar Plantas S.A.
Rosaflor
Rosex Ltda.
Sansa Flowers
Santa Helena S.A.
S.B. Talee de Colombia
Siempreviva
Tag Ltda

Unlocatable

The following 115 companies (including 2 groups) were unlocatable. For those unlocatable companies that were examined in a previous review, we will assess duties based on their company-specific rate from the most recent review. If we have not previously conducted a review of an unlocatable company, duties equal to the ''all others'' rate of 3.1 percent from the LTFV investigation will be assessed.

Achalay
Agricola Altiplano
Agricola del Monte
Agricola la Siberia
Agrocaribu Ltda.
Agro de Narino
Agroindustrias de Narino Ltda.
Agropecuaria la Marcela

Agropecuria Mauricio
Agrotabio Kent
Aguacarga
Alcala
Amoret
A.Q.
Carcol Ltda.
Classic
Coexflor
Color Explosion
Cota
Crest D'or
Crop S.A.
Cypress Valley
Degaflor
Del Monte
Del Tropico Ltda.
Diveragricola
El Milaro
El Timbul Ltda.
Exotic Flowers
Exotico
Ferson Trading
Flamingo Flowers
Flor Colombiana S.A.
Flores Ainsus
Flores Alcala Ltda.
Flores Calichana
Flores Corola
Flores de Iztari
Flores de Memecon/Corinto
Flores del Cielo Ltda.
Flores del Cortijo
Flores Gicro Group
 Flores Gicro Ltda.
 Flores de Colombia
Flores Hacienda Bejucol
Flores la Cabanuela
Flores la Pampa
Flores las Mesitas
Flores Montecarlo
Flores Palimana
Flores S.A.
Flores Saint Valentine
Flores Santana
Flores Sausalito
Flores Sindamanoi
Flores Tenerife Ltda
Floricola
Florisol
Florpacifico
Four Seasons
Fracolsa
F. Salazar
Garden and Flowers Ltda.
German Ocampo
Granja
Gypso Flowers
Hacienda la Embarrada
Hacienda Matute
Hana/Hisa Group
 Flores Hana Ichi de Colombia Ltda.
 Flores Tokai Hisa
Hernando Monroy
Horticultura de la Sasan
Industrial Terwengel Ltda.
Inversiones Maya, Ltda.
Inversiones Silma
Inversiones Sima
Jardin de Carolina
Jardines Choconta
Jardines Darpu
Jardines Natalia Ltda.
Jardines Tocarema
J.M. Torres
Kingdom S.A.
La Colina
La Embairada
La Flores Ltda.
La Floresta
L.H.
Loma Linda
Loreana Flowers
Luisiana Farms
M. Alejandra
Mauricio Uribe
Merastec
Morcoto
Nasino
Olga Rincon
Piracania
Prismaflor
Reme Salamanca
Rosa Bella
Rosas y Jardines
Rose
San Valentine
Sarena
Select Pro
Shila
Solor Flores Ltda.

Starlight

Susca
Sweet Farms
The Beall Company
The Rose
Tomino
Villa Diana
Zipa Flowers

Non-Respondents

The following 42 companies (including 2 groups of companies) did not respond to our questionnaire or responded after the deadline date without explanation. We will assess duties based on the highest rate for any company from this or any prior segment of this proceeding. This rate is 76.60 percent and was determined in Flowers (91–94).

Agricola de Occident
Alstroflores Ltda.
Ancas Ltda.
Arboles Azules Ltda.
Becerra Castellanos y Cia.
Clavelez
Consorcio Agroindustrial
Cultivos Guameru
Dianticola Colombiana Ltda.
Dynasty Roses Ltda.
El Tambo
Euroflora
Exoticas
Exportadora
Flores Abaco S.A.
Flores Bachue Ltda.
Flores Cerezangos
Flores Depina S.A.
Flores de Guasca
Flores de la Cuesta
Flores de la Maria
Flores del Tambo
Flores de la Parcelita
Flores Flamingo Ltda.
Flores Monteverde
Flores Urimaco
Flowers of the World/Rosa
Illusion Flowers
Industria Santa Clara
Inversiones Playa
Inversiones Valley Flowers Ltda.
Jardines de America
Jardines de Timana
Karla Flowers
Laura Flowers
Pinar Guameru
Rosales de Colombia Ltda.
Rosales de Suba Ltda.
San Ernesto
Superflora Ltda.
Tropical Garden
Villa Cultivos Ltda.

Bankrupt Companies

The following group of companies is determined to be bankrupt and will be assessed at a rate of 8.36 percent.

Oro Verde Group
Inversiones Miraflores S.A.
Inversiones Oro Verde S.A.

Confirmed Shipper

The following company responded that it had no shipments of subject merchandise during the period of review, although U.S. Customs data later proved that this company did, in fact, ship subject merchandise during the POR. This confirmed shipper will be assessed at a rate of 2.26 percent.

Flores Tiba S.A.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific per-stem duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total quantity of subject merchandise entered during the POR. We have used the number of stems entered during the POR, rather than the number of stems sold during the POR, because of the perishable nature of the merchandise. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption, as provided by section 751(a)(1) of the Act, on or after the publication date of these final results of review: (1) The cash deposit rate for the individually examined companies will be the most recent rates as listed above, except that for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*, the Department shall require a zero deposit of estimated antidumping duties; (2) the cash deposit rate for non-selected companies will be the weighted-average of the cash deposit rates for the individually examined companies; (3) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (4) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (5) the cash deposit rate for all other manufacturers or exporters will be the ''all other'' rate of 3.10 percent. This is the rate established during the LTFV investigation, as amended in litigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402 (f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of AD duties occurred and the subsequent assessment of double AD duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: October 6, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–27141 Filed 10–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Gray Portland Cement from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 14, 1997.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the administrative review for the antidumping order on Gray Portland Cement from Mexico, pursuant to the Tariff Act of 1930, as amended by the Urguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Kristen Smith, Kristen Stevens, or Steven Presing, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit.

Since it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with Section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim publication date	Final due date*
Gray Portland Cement (A–201–802)	Mexico	8/1/95–7/31/96	9/17/96	9/10/97	3/09/98

*The Department shall issue the final determination 180 days after the publication of the preliminary determination.

Dated: October 6, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, for Enforcement III.

[FR Doc. 97–27140 Filed 10–10–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 7, 1997, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products (lead bar) from the United Kingdom for the period January 1, 1995 through December 31, 1995 (62 FR 16555). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the Final Results of Review section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the Final Results of Review section of this notice.

EFFECTIVE DATE: October 14, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Suzanne King, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers British Steel Engineering Steels Limited (BSES) (formerly United