DEPARTMENT OF COMMERCE

International Trade Administration

[C–421–601]

Standard Chrysanthemums From the Netherlands; Preliminary Results of Countervailing Duty Administrative Reviews

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

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

SUMMARY: The Department of Commerce (the Department) is conducting two administrative reviews of the countervailing duty order on standard chrysanthemums from the Netherlands. We preliminarily determine the net subsidy to be 0.43 percent *ad valorem* for the period January 1, 1992, through December 31, 1992, and 0.80 percent *ad valorem* for the period January 1, 1993, through December 31, 1993. If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Herring, Office of Countervailing Compliance, 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

On March 12, 1987, the Department published in the Federal Register (52 FR 7646) the countervailing duty order on standard chrysanthemums from the Netherlands. On March 12, 1993, and March 4, 1994, the Department published notices of ''Opportunity to Request Administrative Review'' of this countervailing duty order (58 FR 13583) and (59 FR 10368), respectively. We received timely requests for reviews for the 1992 and the 1993 review periods from petitioner, Floral Trade Council.

We initiated the review covering the period January 1, 1992 through December 31, 1992, on May 6, 1993 (58 FR 26960). We initiated the review covering the period January 1, 1993, through December 31, 1993, on April 15, 1994 (59 FR 18099). We conducted a verification of the questionnaire responses in the 1992 administrative review from February 7 through 14, 1994. These reviews are being conducted on an aggregate basis.

Applicable Statute and Regulations

The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of Review

Imports covered by these reviews are shipments of Dutch standard chrysanthemums. Such merchandise is classifiable under item number 0603.10.70 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 776(b) of the Act, we verified information provided by the Government of the Netherlands. We followed standard verification procedures, including meeting with government officials and examining relevant original source documents. Our verification results are outlined in the public versions of the verification report, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each program. We then summed the subsidy rates from all programs benefitting exports of the subject merchandise to the United States.

Analysis of Programs

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Aids for the Creation of Cooperative Organizations

Under European Community (EC) Regulation 355/77, the EC has provided grants to Dutch auction houses, which are flower grower cooperatives. These funds were provided by the EC through the Agricultural Guidance and Guarantee Fund, with matching grant contributions from EC member states. The purpose of the program was to improve the processing, marketing and distribution of agricultural products in member states. This program was terminated on January 1, 1986, and no grants were disbursed after 1987.

In the 1986 and 1987 reviews, the Department determined that this grant program was countervailable because it was limited to a specific enterprise or industry, or group of enterprises or industries in the Netherlands. (*See Standard Chrysanthemums From The Netherlands; Preliminary Results of Countervailing Duty Administrative Review* (54 FR 43977, 43978; October 30, 1989) and *Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Review* (55 FR 462; January 5, 1990) (*1987 Preliminary and Final Results*)). Although this program was officially terminated in 1986, under our grant methodology, benefits are still accruing from this program.

To calculate the benefit, we used a declining balance grant methodology, as determined in the *Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From the Netherlands* (52 FR 3301; February 3, 1987) (*Netherland Flowers*). We allocated the benefits from each grant over 10 years, the average useful life of renewable physical assets in the agricultural sector as determined under the U.S. Internal Revenue Service's Asset Depreciation Range System. This methodology is in accordance with the *Proposed Regulations* (51 FR 23366, 23385; May 31, 1989). We used the average interest rate for long-term commercial loans published by the Netherlands Bank (the Central Bank) as the discount rate for each year in which grants were provided. We divided the sum of these benefits by the f.o.b. value of total auction sales in the relevant review period. On this basis, we preliminarily determine the net subsidy to be 0.07 percent *ad valorem* for 1992 and 0.04 percent *ad valorem* for 1993.

2. Glasshouse Enterprises Program

Under the Glasshouse Enterprises Program, the Ministry of Agriculture, Nature Management and Fisheries (MAF) provided grants to greenhouse growers to stimulate private investment in energy saving methods in the horticulture industry. This program was terminated in June 1985. However, grants approved prior to the termination were disbursed through 1987.

We previously determined that this program was a countervailable domestic subsidy because it was available only to greenhouse growers. (*See 1987 Preliminary and Final Result*). Although this program officially terminated in 1985, under our grant methodology, benefits are still accruing from this program.

To calculate the benefit from this program, we used the grant methodology described in section 1. above. We divided the total benefits from these grants by the value of total greenhouse sales in the relevant review period. On this basis, we preliminarily determine the net subsidy to be 0.17 percent *ad valorem* for the period January 1, 1992, through December 31, 1992, and 0.09 percent *ad valorem* for the period January 1, 1993 through, December 31, 1993.

3. Aids for the Reduction of Glass Surface

Under the Aids for the Reduction of Glass Surface program, the MAF provided grants to greenhouse growers for the purpose of increasing the energy efficiency of greenhouses by replacing existing glass with modern energy-saving glass. The program was terminated in November 1984. However, grants approved prior to the termination of the program were disbursed through 1987.

We previously determined that this program was countervailable because it was limited to a specific enterprise or industry, or group of enterprises or industries. (*See 1987 Preliminary and Final Results*). Although this program was officially terminated in 1984, under our grant methodology, benefits are still accruing under this program.

To calculate the benefit from this program, we used the grant methodology described in section 1. above. We divided the total benefits from these grants by the value of total greenhouse sales in the relevant review period. On this basis, we preliminarily determine the net subsidy to be less than 0.005 percent *ad valorem* for the period January 1, 1992, through December 31, 1992, and less than 0.005 percent *ad valorem* for the period January 1, 1993, through December 31, 1993.

4. Steam Drainage Systems

In January 1981, the Government of the Netherlands (GON) banned the use of methylbromide as a means of soil disinfection due to the potential health hazards caused by the chemical. In December of that year, the MAF established a program making available cash grants to encourage the use of steam drainage as an alternative method of soil disinfection for greenhouses. The program was terminated in September 1984. However, some grants were disbursed through 1987.

In the 1990 administrative review, we determined that this program was countervailable because it was limited to a specific enterprise or industry, or group of enterprises or industries. (*See Standard Chrysanthemums From the Netherlands; Preliminary Results of Countervailing Duty Administrative Review* (57 FR 9539; March 19, 1992) and *Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Review* (57 FR 24249; June 8, 1992) (*1990 Preliminary and Final Results*)). Although this program was officially terminated in 1984, under our grant methodology, benefits are still accruing under this program.

To calculate the benefit from this program, we used the grant methodology described in section 1, above. We divided the benefits from these grants by the value of total greenhouse sales in the relevant review period. On this basis, we preliminarily determine the net subsidy to be less than 0.005 percent *ad valorem* for the period January 1, 1992, through December 31, 1992, and less than 0.005 percent *ad valorem* for the period January 1, 1993, through December 31, 1993.

B. New Program Preliminarily Found to Confer Subsidies

Stimulation for the Innovation of Electric Energy (SES)

The SES program was implemented in 1988 with the goal of stimulating energy conservation. Under the administration of the Ministry of Economic Affairs (MEA), the program is designed to encourage the installation of cogeneration equipment by providing payments of up to 25 percent of the equipment cost, with a cap of 20 million guilders per project. Cogeneration equipment reduces energy consumption by up to 30 percent.

At verification, we found that this program is available to virtually all industries. Although the program is neither designed nor administered with any particular industry in mind, we were told by MEA officials that greenhouse growers were ideal candidates for the program due to their enormous demand for energy. *See Verification Report of the Questionnaire Response in the 1992 Administrative Review* (April 3, 1995) (public document).

We examined disbursements made under the program on an industry-specific basis to determine whether horticulture was the dominant user or received a disproportionate share of benefits under this program. We based our analysis on payments to all horticulture recipients because information is not available on a plant-by-plant basis. Based on our analysis, we found that horticulture accounted for 69 percent of all grant approvals and received 36 percent of all disbursements. Horticulture was, therefore, the largest recipient of grants under this program compared to the share of benefits to other recipients whose disbursements ranged from less than 0.01 percent to 13.9 percent. In prior cases where the Department has found disproportionality, we analyzed whether a program provided a disproportionate share of benefits by comparing their collective or individual share of benefits provided to all other users of the program in question. (*See, e.g., Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy* (59 FR 18357; April 18, 1994) (*Electrical Steel*)). In *Electrical Steel*, steel producers received 34 percent of the benefits under the examined program. In that case, we found that steel producers received a disproportionate share of the program being considered. Similarly, in this case we compared the share of benefits received by horticulture to the collective share of benefits to all others. On this basis, we determine that the SES program provided a disproportionate share of benefits to horticulture. Thus, we preliminarily determine that this program provides a countervailable benefit to producers of the subject merchandise.

Our policy with respect to grants is (1) to expense recurring grants in the year of receipt and (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.50 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grants were received. (*See* section 355.49(a) of the *Proposed*

Regulations and the *General Issues Appendix*, at 37226, which is attached to *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37217; July 9, 1993) (*General Issues Appendix*)).

For the 1992 administrative review, the amount of grants received under this program was not less than 0.50 percent of greenhouse sales. Therefore, we must determine whether the grants provided under the SES program are recurring or nonrecurring to determine whether the grants should be expended in the year of receipt or allocated over time. For the 1993 administrative review, the total amount of grants provided to greenhouses under the SES program was less than 0.50 percent of total greenhouse sales. Therefore, the total value of all grants provided under this program in 1993 have been allocated to that year.

The Department considers that a grant is nonrecurring if the benefits are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from year to year, and/or the provision of funds by the government must be approved every year. The Department also considers that grants used for the purchase of fixed assets would generally be considered nonrecurring. (*See General Issues Appendix, at 37226*). We therefore determine that benefits from grants provided under the SES program are nonrecurring. On this basis, we allocated the benefit from the grants provided under this program during 1992 over the useful life of assets.

Grants were also provided to greenhouses during the years 1988 through 1991. In those years, the grants provided were less than 0.50 percent of total greenhouse sales. Therefore, we would have allocated all grants provided under this program solely to the year of receipt.

To calculate the benefit from this program, we allocated the benefits from grants received in 1992 using the declining balance grant methodology described in section I.A.1. above. For 1993, the benefit is the total value of all grants provided in that year, plus the benefits from the 1992 grants that were allocable to 1993. We then divided the total benefits from these grants by the value of greenhouse sales for the respective review period. On this basis, we preliminarily determine the net subsidy to be 0.18 percent *ad valorem* for the period January 1, 1992, through December 31, 1992, and 0.66 percent *ad valorem* for the period January 1, 1993, through December 1, 1993.

II. Programs Preliminarily Found Not to be Countervailable

1. Arrangement for Stimulation of Innovation Projects

Petitioner alleged that floricultural products benefitted from the Arrangement for Stimulation of Innovation Projects. This program was implemented in 1991 as the continuation of two innovation programs (the Subsidy Scheme for Large Innovation Projects of 1989 and the Grant Scheme for Small Innovation Projects of 1984.) Under the program, the MAF provided funds to promote innovation within the agriculture sector, including entities engaged in flower production. To qualify for assistance, projects must have an innovative element and offer new technological and economic perspectives that have not yet been in practice. In addition, the projects must be such that the results can be passed on to other firms in the Netherlands. Project applications are assessed yearly by technical experts in consultation with agribusiness. Approval or rejection of an application is not based on the type of agricultural production engaged by the applicant, but rather on whether the project meets the criteria outlined above.

The GON divides agriculture into four major subsectors: horticulture, arable farming (crops grown on arable land), livestock farming and cattle farming. We found that grants were provided to all of the subsectors within agriculture. We examined at verification a table listing disbursement of funds, by industry, showing cumulative payments made under the program through December 1993. We verified that flowers accounted for only 0.59 percent of total disbursements under this program.

Because all agricultural subsectors are eligible for and used the Stimulation of Innovation Projects program, and because no disproportionate benefits were provided under this program, we preliminarily determine this program is not countervailable because it is not limited to a specific enterprise or industry, or group thereof.

2. Arrangement for Structural Improvement and the Complementary Scheme for Investment in Agricultural Holdings

Petitioner alleged that floricultural products received benefits from this program. The Arrangement for Structural Improvement (SVL) was implemented in 1985 as a result of the EC Improvement of Efficiency of Agriculture Structures Regulation, which mandated that each member state develop a program to improve efficiency within the agricultural sector. Through the provision of grants to cover the interest on loans for farm improvement projects, the arrangements aim to promote a more rapid adjustment of businesses to environmental and animal welfare requirements. The MAF provides assistance to specified investments which must benefit certain environmental and animal welfare policy objectives. Each year applications from the entire agricultural sector are approved by the MAF. These projects must generate a return but cannot lead to an expansion of production capacity. Any farmer with a farm production income between 15,155 and 43,300 guilders is eligible to apply for SVL assistance. There are no restrictions on the types of agricultural or horticultural products raised or produced by the eligible farmer.

The EC regulation distinguishes between two types of investments, real estate and non-real estate, and allows funding levels of up to 35 percent and 25 percent, respectively. The level of funding allowed by the Dutch regulations, however, is lower than the EC regulation levels. According to Dutch regulations, funding levels range from 7.5 percent to 25 percent, depending upon the type of project.

The SVL program receives co-financing from the EC in the amount of 25 percent of the payments made by the Dutch government. For example, although the EC regulation allows funding levels up to 35 percent for real estate related investments, the Dutch regulation (SVL) allows only 7.5 percent funding. Of the 7.5 percent that is paid by the Dutch government, the EC reimburses 25 percent of the payment.

The Complementary Scheme for Investment in Agricultural Holdings (CRL) was implemented in 1989 by EC Regulation 2328/91. Under this scheme, the MAF provides assistance to farmers which do not meet the farm income requirement for SVL grants.

As with the SVL scheme, the CRL arrangement aims to promote a more rapid adjustment of businesses to environmental and animal welfare through the provision of grants for farm improvement projects. Grants are given for specified investments which must benefit certain environmental and animal welfare policy objectives. These projects, too, must generate some return but must not lead to an expansion of production capacity. The main eligibility requirement for assistance under the CRL is that the agricultural holding must have a production capacity of a one man-work unit. In addition, the investment cannot have been initiated prior to applying for CRL

funds. All sectors of agriculture are eligible to apply for assistance under the CRL scheme.

The CRL provides funds for projects in three areas of investments: environmental protection and improvement, quality improvement, and improvement of working conditions. According to a 1992 MAF Annual Report, 74 percent of the approved investments under this program during that year were in the area of environmental protection and improvement. The GON typically provides funds for 15 to 25 percent of the approved projects. The application process for CRL grants is the same as for assistance in the SVL.

During verification, the Department confirmed that grants under the SVL and CRL schemes were provided to the entire agricultural community and that the evaluation criteria for approval were not product-based. We found that, in 1992, horticulture accounted for 11 percent of total applications for SVL assistance and 3.2 percent of total investments under the SVL.

In the investigation, the Department reviewed a similar program which provided funding of interest on loans for the modernization of agricultural ventures under the Decree for Structural Improvement of Agricultural Enterprises. That program was found not countervailable, since there was no indication that the program was targeted toward flower growers, or was otherwise limited to a specific enterprise or industry. (*See Netherland Flowers.*)

Because all agricultural products are eligible for and used SVL and CRL grants, and because no disproportionate of benefits were provided under the SVL and CRL program, we preliminarily determine this program is not limited to a specific enterprise or industry or group thereof.

3. Natural Gas Provided at Preferential Rates

Natural gas in the Netherlands is sold directly to major customers by the N.V. Nederlandse Gasunie (Gasunie), the utility company. The Agricultural Industrial Board, or ''Landbouwschap,'' a quasi-governmental body created under the Industrial Organizations Act, negotiates with Gasunie prices and general terms of gas delivery for Dutch greenhouse growers. The Landbouwschap is the central consultative and cooperative organization for agriculture in the Netherlands. Its purpose is to represent the economic and political interests of the agricultural sector. All agriculturists are required to be members of the organization and pay dues. Gasunie is 40 percent owned by DSM Aardgas (a company wholly-owned by the GON), 10 percent by the GON, 25 percent by Shell Nederland, and 25 percent by Esso Nederland N.V. While the GON does not own a controlling interest in Gasunie, it plays a significant role in setting the price of natural gas. The Minister of Economic Affairs reserves the right to approve selling prices and terms of delivery for supplies to public distributors in the Netherlands, large export contracts, and contracts between Gasunie and the Landbouwschap.

Natural gas prices are based on levels of consumption, which are broken down into four categories or ''zones'', zones a through d. Zone a consumers use between 0 and 170,000 cubic meters (m^3) of gas per year; zone d consumers use between 10 million to 50 million m^3 of gas per year. Zone a users pay the highest price per m^3; zone d the lowest.

In the October 1984 contract negotiated with Gasunie by the Landbouwschap on behalf of greenhouse growers, a maximum ceiling price was established. In *Netherlands Flowers,* we determined that this contract with the price ceiling provision was countervailable. Accordingly, in *Netherlands Flowers,* we determined that the benefit to greenhouse growers was the difference between the price of gas actually paid by greenhouse growers in the period of the investigation and the zone d price they would have had to pay under the contract absent the price ceiling provision.

In the 1987 administrative review (54 FR 43977,43978; October 30, 1989), a renegotiated contract was in effect. Because the new contract did not contain a provision for a ceiling price, we determined greenhouse growers did not receive natural gas at preferential rates and, therefore, the program did not confer a countervailable benefit. This contract expired on October 1, 1989.

In the last administrative review, we found that greenhouse growers, through the Landbouwschap, had negotiated a new contract with Gasunie for the period October 1, 1989 through October 1, 1994. The terms of the new contract were basically the same as the 1987 contract. Therefore, we determined that such a contract did not confer a countervailable benefit. (*See 1990 Preliminary and Final Results*).

With respect to the pricing arrangement under this program, we confirmed during the verification of the 1992 administrative review that the terms of the contract in effect during this review period, which were still in effect during the subsequent 1993 review period, had not changed from the previous contract found not countervailable in the 1990 administrative review. Therefore, we continue to determine that the contract rate for greenhouse growers does not provide a countervailable benefit to producers and exporters of the subject merchandise.

However, in the 1992 administrative review, petitioners alleged that an additional aspect of the contract may confer a countervailable benefit upon the production of the subject merchandise. Petitioner alleged that the contract in effect during the 1992 review period contained a new compensation arrangement for ''small'' consumption users of natural gas. During verification of the 1992 administrative review, we found that this compensation arrangement was part of the contract in effect during October 1989 through October 1994 (the 1989–1994 contract).

Negotiated by the Landbouwschap, that contract was made on behalf of the horticulture sector. Gas prices in the 1989–1994 contract were based on two annual gas consumption levels: Level 1, 0–30,000 cubic meters (m^3); and Level 2, 30,000 m3 and over. Since gas prices were lower for Level 2 consumption, there were concerns that users consuming less than 30,000 m^3 of gas might waste gas in order to qualify for the lower rate. Therefore, Landbouwschap and Gasunie established a compensation arrangement which provided rebates to small gas users to offset the difference in the consumption prices. The purpose of this compensation arrangement was twofold: to ensure energy conservation as well as to protect the environment.

According to the provisions of the contract, the arrangement was funded through monies paid by those Landbouwschap members which were large gas users. The fund, administered by Landbouwschap, was derived from a surcharge built into the price of gas paid by the large gas users under the 1989–1994 contract. The criteria for eligibility, as outlined in the contract, were that the recipient had to be a registered agriculturist or horticulturist and that the gas had to be used for the growing process of horticulture. We noted at verification that virtually all horticulturists (95–98 percent) fell under Level 2 with an average consumption of 450,000 m^3 a year; these users were covered by the 1989–1994 contract between the Landbouwschap and Gasunie. The remaining horticulturists were the small gas users who could be eligible for a rebate.

With respect to the separate rebate program for small growers, we determine that the program does not provide a countervailable benefit. This

rebate program was established under the contract between Landbouwschap and Gasunie, and the funds used to provide the rebates are collected from the large growers and then are distributed to the small growers of the cooperative. The utility company received the full rates due it under the contract from both the large and small grower-members of the Landbouwschap. Under this arrangement, the role of Gasunie is to collect the surcharge from the larger members of the Landbouwschap. These funds are then returned to the Landbouwschap, which administers the program and provides the rebates to the small growers. In addition, there is no evidence to indicate that the Landbouwschap was required by Government of the Netherlands to enter into this specific contract arrangement with Gasunie. As such, this rebate program is not countervailable.

4. Income Tax Deduction

The Income Tax Deduction was established in January 1990 under Article 11 of The Netherlands Tax Code and was geared towards small businesses. The program provides for a tax allowance on investments in tangible assets. Any entrepreneur is eligible for this deduction as long as the business reports the investments on the income tax form, the investment amount does not exceed 471,000 guilders, and the investment is substantiated by attaching the capital improvement invoices to the tax form. The allowance ranges from 2 percent to 18 percent, depending on the amount of the investment, and is deducted from the profits made during the year in which the investment is made. The legislation provides that all industries are eligible to claim the income tax deduction if the aggregate annual investments are at least 3,100 guilders, but not more than 471,000 guilders. As the investment amount increases, the investment deduction decreases. For example: for an investment in the 3,100–53,000 guilder range, the allowable deduction is 18 percent of the investment; for investments in the 419,000–471,000 guilder range, it is 2 percent. Companies exceeding the investment cap are not eligible for a deduction under this program.

At verification, we found that as long as any entrepreneur meets the investment criteria the receipt of the deduction is automatic and that there is no formal application process to apply for the deduction. We also found that no specific government approval is required prior to a company filling its tax form. Therefore, because any business in the Netherlands who makes an investment no greater than 471,000 guilders automatically receives the income tax deduction under this program by merely claiming it in its tax return, we preliminarily determine this program to be not countervailable because it is not limited to a specific enterprise or industry, or group thereof.

5. Value Added Tax (VAT) Reduction of 6 Percent for Natural Gas Users and Partial Restitution of VAT for Mineral Oils, Fuels, Bulk or Bottled Gas

Petitioner alleged that the horticultural industry benefits from a reduced VAT on natural gas and a partial restitution of the VAT on purchases of mineral oils, fuel and bulk or bottled gas used for heating greenhouses. The VAT system was first introduced in 1960 by the EC. The VAT is a country-wide internal consumption tax paid by consumers. As a commodity goes through various processing or production stages, each downstream consumer pays a tax on the value added portion of the product. The seller subtracts the tax already paid and forwards the VAT owed on the ''enhanced or improved portion'' of the commodity to the Dutch Internal Revenue Service. The general VAT rate for the Netherlands was 17.5 percent during the review period.

When the EC first introduced the VAT, it decided that the agricultural sector could be exempted from the normal VAT system because the required record keeping was too burdensome. Under Article 25 of the EC Sixth Council Directive of May 17, 1977 (the 1977 Directive), member countries could exclude all or partial sectors of agriculture and establish different rates for this sector.

Agricultural producers in the Netherlands fall under a flat-rate scheme established to offset the VAT ''expense'' included in the price of the goods and services they provide. Under this scheme, farmers are not entitled to deduct the VAT they have already paid when purchasing their own goods and services, but instead pass it along in their selling price(s). Commodities sold by farmers to individual consumers incorporate the prior stage VAT, resulting in a higher price to the consumer.

The 1977 Directive and the Dutch National Tax Law also stipulate a reduced VAT rate of 6 percent for virtually all goods and services purchased or used by flat-rate farmers. Therefore, during this review, farmers (which also includes all greenhouse growers and horticulturists) paid only a 6 percent VAT rate on natural gas purchased for heating their greenhouses.

In addition to the flat-rate scheme outlined above, farmers are eligible for a reduced VAT rate of 6 percent, as per Article 34b of the Dutch National Tax Law, on the purchase of fuels, mineral oils, and bulk or bottled gas used for heating their greenhouses. In purchasing these products, farmers paid the standard 17.5 percent VAT rate and then applied for a VAT rebate with the MAF. The rebate is 11.5 percent of the value of the gas or oil (not including the VAT). The rebate represents the difference between the 17.5 percent VAT already paid and the 6 percent VAT the farmers are entitled to pay under the Dutch National Tax Law.

We verified that under Article 17 of the Dutch National Tax Law the VAT rate established for farmers was 6 percent. We also found that the Dutch Value Added Tax Act of 1968 provides a 6 percent reduced tax rate for a variety of goods and services used in agriculture; such as, foodstuffs, cereals, seeds, cattle, sheep, goats, pigs, horses, breeding eggs, veterinary medicines, water, gas and mineral oil, beetroot, agricultural seeds, fertilizer, feed, round wood, flax, wool, agricultural tools, bulbs, plants, and services to agriculture, such as, contracting, repairs, breeding, inspections, accounting, drying, cooling, cleaning and packaging of agricultural products.

To receive a refund of the VAT, any taxpayer entitled to the reduced tax rate was required only to present proof of the amount of VAT tax already paid when purchasing the goods and services. No other approval process was necessary. With respect to the farmer, we found that to obtain a VAT refund, he merely provided proof that his purchases of natural gas, mineral oils, and bulk and bottled gas were used for heating his greenhouse and then received the reduced rate automatically. Therefore, because the 6 percent VAT rate charged to farmers is the same as the 6 percent VAT rate paid by all farmers on virtually all their purchases of goods and services under the Dutch Tax Law, and because no disproportionate benefits were provided under this program, we preliminarily find that this program is not limited to a specific enterprise or industry or group thereof.

6. Guarantee Fund for Agriculture

The Stichting Borgstellingsfonds voor de Landbouw (Foundation Security Fund for Agriculture, or ''Fund'') is used to guarantee the servicing and repayment of loans made by banks to farmers. The Fund acts as an

institutional guarantor, not as a lender itself, providing guarantees only when the security offered by the farmer is inadequate for the total loan amount. A loan application may be made to the Fund only after all of the farmer's own securities or collateral have been provided for the loan. If an application is approved under the Fund, the guarantee applies only to the portion of the loan not originally approved by the bank. This program was originally found countervailable in the *Netherlands Flowers.*

In the 1990 administrative review, we found that the average long-term annual interest rates charged on loans under this Fund were consistent with the average interest rates charged on long-term bank loans, as reported by De Nederlandsche Bank. (*See 1990 Preliminary and Final Results*).

Based on verification of the 1992 review and on our analysis of information provided in the 1993 review, we again determine that the average long-term annual interest rates charged on loans under this Fund were consistent with the average interest rates charged on long-term bank loans. On this basis, we determine that this program does not provide a countervailable benefit. Because this program has not been terminated, we will continue to review it in subsequent administrative reviews.

III. Programs Preliminarily Found Not to be Used

We determine that the producers or exporters of the subject merchandise did not apply for or receive countervailable benefits under these programs during these review periods:

A. Investment Incentive (WIR)—Regional Program.

B. Loans at preferential interest rates.

Preliminary Results of Reviews

For the period January 1, 1992, through December 31, 1992, we preliminarily determine the total net subsidy to be 0.43 percent *ad valorem*. For the period January 1, 1993 through December 31, 1993, we preliminarily determine the net subsidy to be 0.80 percent *ad valorem*.

If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the Customs Service to assess countervailing duties of 0.43 percent of the f.o.b. invoice price on shipments of the subject merchandise exported on or after January 1, 1992, and on or before December 31, 1992, and 0.80 for all shipments of the subject merchandise exported on or after January 1, 1993, and on or before December 31, 1993.

The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties, as provided for by section 751(a)(1) of the Act, of 0.80 percent of the f.o.b. invoice price on all shipments of the subject merchandise from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted 7 days after the time limit for filing the case brief. Parties who submit written arguments in these proceedings are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Written arguments that are intended to comment on the preliminary results for both the 1992 and 1993 reviews must be submitted to the file for each proceeding. Any hearing, if requested, will be held 7 days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due. The Department will publish the final results of these administrative reviews including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: April 29, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–11242 Filed 5–3–96; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–421–601]

Standard Chrysanthemums From the Netherlands; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands. We preliminarily determine the net subsidy to be *de minimis* for all exports of the subject merchandise to the United States for the period January 1, 1994, through December 31, 1994. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from the Netherlands exported on or after January 1, 1994, and on or before December 31, 1994. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Herring, Office of Countervailing Compliance, 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

On March 12, 1987, the Department published in the Federal Register (52 FR 7646) the countervailing duty order on standard chrysanthemums from the Netherlands. On March 7, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' (60 FR 12540) of this countervailing duty order. We received a timely request for review from petitioner, Floral Trade Council, and we initiated the review, covering the period January 1, 1994, through December 31, 1994, on April 14, 1995 (60 FR 19018). On November 2, 1995, we fully extended the period for completion of the preliminary and final results,