Program Specific to the Suspension Agreement on Roses and Other Cut Flowers

(11) Air Freight Rates

The Civil Aeronautics Board (Departmento Administrativo de la Aeronautica Civil, hereafter referred to as ''DAAC'') is the government agency that develops, maintains and regulates air transport and air space activities.

Section D(3) of the suspension agreement states that the Department may consider rescinding the agreement if the air freight rates paid by cut flower exporters approach the government-mandated maximum rates set by the DAAC because such rates might be indicative of government control rather than the result of competitive forces.

We preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the POR. Although no subsidies were received by exporters of the subject merchandise through this program, the program establishing minimum and maximum rates itself has not been abolished. Rather, the above scenario characterizes non-use of the program. Therefore, we preliminarily determine that this program has not been used by exporters of the subject merchandise for a period of five consecutive years.

Preliminary Results of Review

We preliminarily determine that the GOC and the producers/exporters of the subject merchandise have complied with all the terms of the suspension agreements during the period January 1, 1994 through December 31, 1994. We preliminarily determine that no countervailable benefits have been bestowed on subject merchandise, and furthermore, that producers/exporters of subject merchandise have not used the above programs for at least five years (or, in the case of programs only recently created, for the life of the program). Additionally, we note that the GOC has stated for the record that it will institute or maintain appropriate measures to ensure that export loan programs will be administered to guarantee that loans granted to recipients are comparable to commercial loans that a flower producer/exporter could obtain in the market, such as those alternative sources of financing available to agriculture in Colombia, and will not confer any loan program countervailable subsidies on flower producers/exporters. Furthermore, the GOC has certified that, for the subject merchandise, it shall not reinstate those programs which the Department has found countervailable, and it shall not substitute other countervailable programs. Finally, producers/exporters have certified that they will not apply for or receive any net subsidy on exports to the United States of subject merchandise from those programs that the Department has found countervailable in any proceeding involving Colombia or from other countervailable programs.

Therefore, we preliminarily determine that the GOC and the producers/exporters covered by this agreement have met the requirements for termination of the suspended countervailing duty investigations on roses and other cut flowers and miniature carnations, as required by 19 CFR 355.25.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. The Department will publish the final results of its analysis of issues raised in any such written comments or at a hearing.

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

Dated: February 28, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–5439 Filed 3–6–96; 8:45 am]

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[C–301–003, C–301–601]

Roses and Other Cut Flowers From Colombia; Miniature Carnations From Colombia Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations.

SUMMARY: On August 16, 1995, the Department of Commerce (''the Department'') published the preliminary results of its administrative reviews of the agreements suspending the countervailing duty investigations on roses and other cut flowers (roses) from Colombia and on miniature carnations (minis) from Colombia. We gave interested parties an opportunity to comment on the preliminary results. After reviewing all the comments received, we determine that the Government of Colombia (''GOC'') and producers/exporters of roses and minis have complied with the terms of the suspension agreements during the period January 1, 1993 through December 31, 1993.

EFFECTIVE DATE: March 8, 1996.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

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 (January 3, 1995)).

Background

On August 16, 1995, the Department published in the Federal Register (60 FR 42535) the preliminary results of its administrative reviews of the agreements suspending the countervailing duty investigations on roses and minis from Colombia (See *Roses and Other Cut Flowers From Colombia; Suspension of Investigation,* 48 FR 2158 (January 18, 1983); *Roses and Other Cut Flowers From Colombia; Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement,* 51 FR 44930 (December 15, 1986); and *Miniature Carnations from Colombia; Suspension of Countervailing Duty Investigation,* 52

FR 1353 (January 13, 1987)). We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 355.22.

Scope of Review

The products covered by this administrative review constitute two ''classes or kinds'' of merchandise: roses and minis from Colombia. During the period of review (''POR''), such merchandise covered by these suspension agreements was classifiable under *Harmonized Tariff Schedule* (''HTS'') item numbers 0603.10.60, 0603.10.70, 0603.10.80, and 0603.90.00 for roses, and 0603.10.30 for minis. The HTS item numbers are provided for convenience and Customs purposes only. The written descriptions remain dispositive.

This review of the suspended investigations involves over 450 Colombian flower growers/exporters of roses, over 100 Colombian flower growers/exporters of minis, as well as the GOC. We verified the responses from six growers/exporters of the subject merchandise: Flores La Conchita Germán Ribón E. en C. (roses and minis); Tuchany, S.A. (roses); Flores de Exportación, S.A. (roses and minis); Queen's Flowers of Colombia Ltda. (roses and minis); Florval, S.A. (roses and minis); and Flores de Funza, S.A. (roses and minis) (collectively, the six companies). The suspension agreement for minis covers ten programs: (1) Tax Reimbursement Certificate Program (''CERT''); (2) ''BANCOLDEX'' (funds for the promotion of exports); (3) Plan Vallejo; (4) Free Industrial Zones; (5) Export Credit Insurance; (6) Countertrade; (7) Research and Development; (8) Instituto de Fomento Industrial (''IFI''); (9) Financiero de Desarrollo Territorial (''FINDETER''); and (10) Fondo Financiero de Proyectos de Desarrollo (''FONADE''). The suspension agreement for roses covers the ten programs listed above, as well as (11) Air Freight Rates. The POR is January 1, 1993 through December 31, 1993.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the respondents, the GOC and Associación de Flores (''Asocolflores''); and the petitioners, the Floral Trade Council (''FTC''). Comments submitted consist of petitioner's case brief of November 17, 1994 and rebuttal brief of November 28, 1994; and respondent's rebuttal brief of November 28, 1994. Petitioner and respondents resubmitted identical comments to the issues addressed previously in the 1991–1992 administrative reviews of these suspension agreements. Therefore, the parties' comments refer to the record of the 1991–1992 reviews of these agreements. The Department has addressed the substance of parties' comments as they pertain to this POR.

Comment 1: The FTC contends that the GOC is unable to monitor the ultimate shipment destination of exports for which CERT rebates were granted and therefore unable to monitor compliance with the suspension agreements with regard to the CERT program (See *Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Review and Determination not to Terminate Suspended Investigation,* 59 FR 10790, 10793 (March 8, 1994); FTC Public Factual Submission at Exhibits 9 and 10 (August 1, 1992); FTC Public Request for Verification (July 23, 1993) submitted as part of the 1991–1992 reviews of these agreements).

Department's Position: We disagree with petitioner. At verification for the 1993 POR, the Department reviewed documentation provided by the six companies and by the Banco de la República (the Central Bank), including applications and records of official government approval and disapproval for CERT payments. The Department also examined export documents (''DEX'') and other shipping documents to determine destinations of shipments receiving CERT payments, and verified that no shipments of the subject merchandise received CERT payments. We also verified documentation at the six companies confirming that the GOC did not grant CERT payments on subject merchandise (See verification reports for each company). Thus, we have determined that the GOC has adequately monitored the suspension agreements and has provided the Department the relevant reports in accordance with the terms of the suspension agreements (See also *Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Review and Determination not to Terminate Suspended Investigation,* 59 FR 10790 (Comment 7) (March 8, 1994) and *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations* 60 FR 42540 (August 16, 1995).

Comment 2: The FTC asserts that export documents offer no objective support for the conclusion that CERT payments were made only for third-country exports. The FTC contends that the GOC granted CERT payments on certain shipments which may either have been transhipped to the United States without traveling the entire distance to Canada and Europe or have been reshipped to the United States from the Netherlands Antilles and Panama. Moreover, the FTC cites the BANCOLDEX annual report for 1992 and asserts that the GOC admitted that Panama and the Netherlands Antilles ''have been traditionally identified as destinations for fictitious and over-invoiced exports'' in order to receive CERT rebates, and that ''it was precisely for this reason that the CERT program was abolished for these countries in early 1992.'' The FTC asserts that the sheer volume shipped to Panama and the Netherlands Antilles indicates that it was a substantial conduit for transhipment. Consequently, the FTC alleges that this is a prima facie breach of the suspension agreements, which are no longer in the public interest, and that the Department is required pursuant to 19 U.S.C. 1671c(i) to resume the investigation and/or issue countervailing duty orders.

The GOC argues that the value of total exports of all Colombian products to Panama (or even the Netherlands Antilles) does not indicate that a single flower was transshipped through the Netherlands Antilles.

Department's Position: The suspension agreements obligate Colombian growers/exporters to renounce CERT payments on exports of the subject merchandise to the United States and Puerto Rico. Additionally, in January 1987, the GOC set the level of CERT payments at zero percent for exports of the subject merchandise. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations* FR 42540 (August 16, 1995). At verification for the 1993 POR, the Department fully verified the non-receipt of CERT payments on exports of the subject merchandise by reviewing the Central Bank's CERT printouts by destination. At the six companies examined at verification, we examined several third-country sales, including sales to Panama and the Netherlands Antilles, by reviewing the DEXs, the receipt of payments, and airway bills. In addition, we examined the ultimate destination of specific sales of the subject merchandise. Based on the findings of verification, we found no evidence to support the allegation of transshipment or reshipment of the subject merchandise (See verification reports

for each company). As a result, we have determined that with respect to this issue the GOC and the flower growers/exporters were in compliance with the suspension agreements during the POR.

Comment 3: The FTC argues that because CERT rebates are not necessarily tied to third-country exports, the Department should reconsider its position that ''rebates tied to exports to third countries do not benefit the production or export of the subject merchandise.''

Department's Position: It is the Department's policy that rebates tied to exports to third countries do not benefit the production or export of the subject merchandise destined for the United States. We found no evidence in the questionnaire responses or at the most recent verification that would cause us to reconsider our position. (See *Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Review and Determination not to Terminate Suspended Investigation,* 59 FR 10790 (Comment 7) (March 8, 1994), and *Roses and Other Cut Flowers from Colombia; Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations,* 60 FR 42541 (Comment 4) (August 16, 1995)).

Comment 4: The FTC asserts that both suspension agreements allow the Department to terminate the suspension agreements if producers/exporters account for less than 85 percent of the total exports of the subject merchandise to the United States and Puerto Rico. Further, the FTC claims that there is effectively no suspension agreement for the minis because the GOC does not have an up-to-date list of signatories during the 1991–1992 PORs (See *Roses and Other Cut Flowers From Colombia; Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement,* 51 FR 44930, and 44933 (December 15, 1986); and *Miniature Carnations from Colombia; Suspension of Countervailing Duty Investigation,* 52 FR 1353, and 1356 (January 13, 1987)).

Department's Position: The suspension agreement on minis states that should exports to the United States by the producers and exporters account for less than 85 percent of the subject merchandise imported directly or indirectly into the United States from Colombia, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation under 19 CFR 355.18 (b)(3)(c) of the Commerce Regulations. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations,* 60 FR 42540 (August 16, 1995).

We have found that the GOC has not maintained an up-to-date list of signatories for both suspension agreements. Nonetheless, the record evidence indicates that signatories have been in full compliance with the agreement. At verification for this review, we analyzed the Colombian Customs Authority's export statistics of all flower companies exporting minis to the United States and Puerto Rico. The Department reviewed and verified at each GOC agency information for all producers of the subject merchandise, despite their signatory status. At the Central Bank, we checked computer records of exports with U.S. and Puerto Rican country identification codes showing that no CERT payments were made to any flower growers/exporters for shipments of the subject merchandise.

At BANCOLDEX, we reviewed and verified all PROEXPO/BANCOLDEX loans issued and outstanding in the POR (See also Government Verification Reports of May 27, 1994 and August 11, 1995) and we have determined that the Colombian flower growers/exporters have complied with the terms of the suspension agreements during the POR. Similarly, we verified that no countervailable benefits were granted to or received by any flower growers/exporters for Plan Vallejo, Air Freight Rates, Free Industrial Zones, and Export Credit Insurance Program. Based on this evidence, the Department verified more than 85 percent of the Colombian flower growers/exporters of the subject merchandise during the POR. Consequently, the Department will neither renegotiate the minis suspension agreement with the GOC and the growers/exporters of the subject merchandise, nor terminate the suspension agreements and reopen the investigations.

Comment 5: The FTC claims that under the terms of the suspension agreements, the Department is forced to apply outdated/subsidized benchmark interest rates to determine ''compliance'' with the suspension agreements. The FTC objects to the Department's practice in setting prospective and outdated benchmark interest rates to determine compliance with the terms of the suspension agreements and argues that the Department should either terminate the suspension agreements with respect to the BANCOLDEX program, or, at least, amend the agreements by prohibiting Colombian growers from receiving loans at non-preferential rates. The FTC asserts that the Department should refrain from establishing fixed benchmark interest rates, and instead the Department should determine a benchmark for each review period by adhering to the precedents set in the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, Steel Wire Rope from Thailand,* 56 FR 46299 (September 11, 1991); and *Final Results of the Administrative Review for Rice from Thailand,* 59 FR 8906, and 8907 (1994).

The FTC claims that the suspension agreements are not in the public interest because Colombian flower growers/exporters can ''technically'' comply with the terms of the suspension agreements while at the same time receive loans at preferential interest rates. Because the benchmarks are outdated, the FTC asserts, they are incapable of eliminating the net subsidy on flowers. Thus, the FTC contends that if Colombian flower growers continue to receive loans at preferential interest rates, the Department should either impose countervailing duties or fashion a suspension agreement that eliminates the subsidy, offsets the subsidy completely, or ceases the exports.

In addition, the FTC asserts that the Department cannot predict future interest rates, especially because interest rates fluctuated widely between 19 and 32 percent during the 1991–1992 PORs, or predict what Colombian flower growers/exporters could receive in non-peso based interest rates years after establishing benchmarks which may not be applicable to unforeseen loan programs.

Department's Position: We disagree with petitioner. The Department determines that suspension agreements are forward-looking, and that the Department sets benchmark interest rates prospectively. (See *Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Review;* 56 FR 14240 (April 8, 1991), *Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Review and Determination Not To Terminate Suspended Investigation,* 59 FR 10790, (March 8, 1994), and *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations,* 60 FR 42541 (August 16, 1995)).

At verification for the 1993 POR, the Department examined documentation that indicated that BANCOLDEX

charged interest rates on its short- and long-term loans above the Department's established benchmark rates in effect during the POR. The Department also found that the companies received BANCOLDEX loans on terms consistent with the suspension agreements. Consequently, we have determined that signatories were in compliance with the terms of the suspension agreements for the BANCOLDEX programs. Because BANCOLDEX loans were above the benchmark rates, the Department determines that the GOC did not confer any countervailable benefits through the BANCOLDEX programs during the POR. The Department finds that signatories complied with the suspension agreements' benchmarks and avoided receiving countervailable benefits during the POR, resulting in a situation analogous to non-use for the BANCOLDEX programs by Colombian flower growers/exporters of the subject merchandise. Therefore, there is no basis for petitioner's claim that the suspension agreements are not in the public interest.

To ensure timely updates of the benchmarks for BANCOLDEX financing, the Department requests information on FINAGRO, commercial dollar loans and other alternative sources of financing in Colombia outside of the annual administrative review process (See Section III, ''Monitoring of the Agreement'' in *Roses and Other Cut Flowers from Colombia: Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement*, 51 FR 44930 and 44933 (December 15, 1986) and *Suspension of Countervailing Duty Investigation: Miniature Carnations from Colombia*, 52 FR 1353 and 1355 (January 13, 1987)).

Comment 6: Petitioner asserts that the GOC did not comply with the suspension agreements regarding Colombian peso (peso) loans for the following reasons:

First, the FTC claims that were the Department to compare the interest rates on 1991 and 1992 PROEXPO/ BANCOLDEX (''BANCOLDEX'') loans to the weighted-average commercial lending rates published by the International Monetary Fund (''IMF'') or the (FFA/FINAGRO ''FINAGRO'') rates during those PORs, the Department would have found that Colombian flower growers/exporters received loans at preferential interest rates.

Second, the FTC asserts that the Department should not equate compliance with pre-established benchmark interest rates with compliance with the terms of the suspension agreement covering minis, because under the minis suspension agreement the Colombian flower growers/exporters have two distinct obligations: (1) not to apply for or receive financing at preferential terms; and (2) not to apply for or receive financing other than that offered at or above the most recent benchmark interest rates determined by the Department.

Finally, the FTC argues that if the Department's 1989 benchmark for minis were to be applied to 1991 and 1992 loans received for roses, the Department would likely find Colombian producers/ exporters receiving BANCOLDEX loans at preferential rates during the PORs. Consequently, the FTC asserts that the suspension agreements should either be revised or found unworkable.

The GOC argues that all Colombian flower producers/exporters of minis and roses have fully complied with the terms of their respective suspension agreements. Furthermore, the GOC asserts that the FTC incorrectly applies the minis benchmark interest rates to loans for exports of roses. The GOC explains that the current benchmarks for roses and minis differ, not because there is a defect in the suspension agreements or because of the Department's approach, but instead because the FTC had requested a review of only the minis suspension agreement in 1989. Regardless, the GOC claims that loans issued to roses growers/exporters met the benchmarks established under the minis suspension agreement.

Department's Position: We disagree with petitioner. The Department has determined in previous reviews that any changes to benchmark interest rates for the suspension agreements should be set prospectively, because suspension agreements are forward-looking. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations*, 60 FR 42542 (August 16, 1995)). Furthermore, the Department verified that the Colombian flower growers/ exporters of the subject merchandise have fulfilled the two distinct obligations in the suspension agreements during the 1993 POR: (1) not to apply for or receive financing at preferential terms; and (2) not to apply for or receive financing other than that offered at or above the most recent benchmark interest rates determined by the Department (See verification reports for each company).

At verification for this review, the Department reviewed all loans issued by BANCOLDEX during the POR, in particular the six companies we examined at verification, and found that the loans granted were on terms consistent with the suspension agreements. Additionally, because BANCOLDEX loans were pegged to the floating DTF rate, and the DTF rate fluctuated widely over the review period, we did not compare the rate on an individual loan with the annual average DTF rate (See verification reports for each company). Therefore, Colombian flower growers/exporters did not apply for or receive financing at preferential terms, and the Department determines that the GOC did not confer any countervailable benefits during the POR, and that signatories complied with the terms of the suspension agreements for the BANCOLDEX programs during the POR.

Finally, the Department agrees with the respondents that because the suspension agreements are two separate agreements, it would be erroneous to apply the 1989 minis benchmark interest rates to the roses suspension agreement during this POR. We have applied the benchmark interest rate of each suspension agreement appropriately. Coincidentally, the rates in effect for each agreement are now identical. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations* 60 FR 42542 (August 16, 1995)).

Comment 7: The FTC asserts that the Department should reconsider its use of the subsidized FINAGRO interest rate, when establishing new short- and long-term benchmarks. The FTC argues instead that the Department use weighted-average interest rates of available non-government-related financing at commercial lending rates maintained by the Central Bank. In addition, the FTC asserts that the Department is not required to look to interest rates available to the agricultural sector, when the rates are not available to flower growers/ exporters (See *Rice From Thailand; Preliminary Results of Countervailing Duty Administrative Review*, 57 FR 8437, and 8439 (March 10, 1992)).

The FTC asserts that if the Department decides to base its peso loan benchmarks on FINAGRO interest rates, then it should use the maximum interest rates for large producers, i.e., DTF plus 6 percentage points. In addition, the FTC argues that the Department should adjust the interest rates to reflect the spread between short- and long-term BANCOLDEX loans. The FTC argues that the Department should not establish a two-tier benchmark system, or a range of interest rate benchmarks,

because there would be no criteria by which the Department could determine what is preferential.

The GOC asserts that the FTC offers no basis upon which the Department could support a change from a FINAGRO based benchmark to a weighted-average interest rates on available non-government-related financing at commercial lending rates. The GOC argues that FINAGRO lending rates are appropriate because the rates are not enterprise or industry specific, which otherwise would make them a countervailable subsidy (See *Final Affirmative Countervailing Duty Determination; Miniature Carnations from Colombia, 52 FR 32033, and 32037 (August 25, 1987); and Roses and Other Cut Flowers From Colombia; Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement*, 51 FR 44930, and 44,932 (December 15, 1986)).

Department's Position: We have determined that FINAGRO is a major intermediary lender to the agricultural sector, and therefore is an appropriate alternative basis for the Department's benchmarks. Because there is insufficient information on the record about non-government-related financing at commercial rates, we have determined that it is inappropriate to weight average the commercial interest rates. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations* 60 FR 42542 (August 16, 1995)).

The most recent FINAGRO short-term rate is equal to the Colombian fixed deposit rate, DTF, plus up to 6 percentage points. We agree with petitioner that by establishing a range of interest rate benchmarks (*i.e.*, DTF plus up to 6 percentage points), as suggested by respondents, there is in effect no benchmark because this would be equivalent to setting the benchmark (minimum rate) at DTF—a rate that does not reflect commercial rates or an alternative rate of financing. Therefore, the Department determines that, as verified, the most recent average official interest rate on all loans financed by FINAGRO through Caja Agraria, *i.e.*, nominal DTF plus 3.66 percentage points, is the appropriate benchmark for short-term financing. (See *Calculation Memorandum for Interest Rate Benchmark Methodology for BANCOLDEX Peso-and Dollar-Denominated Loans*, January 17, 1996, and Government Verification Report, Exhibit BR–1). Because BANCOLDEX also administered long-term loans, we determine that the same nominal DTF plus 3.66 percentage points, plus an additional 0.25 percentage point for each year after the first, is the appropriate benchmark. Furthermore, loans provided at or above the benchmark will not be considered preferential (See Comments 6 and 10).

The Department determines not to adopt the two-tier interest rate system (borrowers can receive different interest rates depending on the size of the company) because BANCOLDEX interest rates are not determined on the basis of the size of flower growers (See BANCOLDEX resolution 007, article 6, paragraph d (June 16, 1993)).

The Department determines that the short- and long-term benchmarks for peso-denominated financing will become effective 14 days after the date of publication of the final results of these administrative reviews.

Comment 8: The FTC requests that the Department weight-average Caja Agraria interest rates with FINAGRO rates as done in previous reviews. In the case that there is conflicting data, the FTC suggests rejecting such data and using commercial lending rates maintained by the Central Bank as best information available.

In response, the GOC claims that the reported Caja Agraria interest rates are lower than reported FINAGRO rates (Submission of June 3, 1994) and further argues that the submitted information does not conflict with rates provided in the questionnaire response, which were reported as applicable rates for different denomination loans.

Department's Position: We disagree with petitioner. FINAGRO is the major alternative source of agricultural financing in Colombia that provides rediscount rates to intermediary banks in Colombia. We have determined that because information submitted by respondents about Caja Agraria's rates conflicts with what we found at verification and because Caja Agraria's interest rates are similar to the rates offered by FINAGRO, FINAGRO's interest rates represent the best alternative source of financing for agricultural entities in Colombia (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations*, 60 FR 42542 (August 16, 1995).

Comment 9: The FTC asserts that the Department should use effective rather than nominal interest rates. The FTC contends that effective rates are a more accurate measure of a subsidy and reflect a considerably higher rate. The FTC asserts that nominal rates vary widely, because commissions and other surcharges can add to the cost of a loan. In addition, the FTC asserts, the GOC has not established that the financial intermediary does not assess surcharges for its services or use of its own funds in financing loans.

In response, the GOC argues that the nominal and effective interest rates are equivalent, because the nominal rate is the rate expressed as if interest were due at the beginning of each quarter, while the effective rate is the equivalent rate calculated on the basis of interest being payable at the end of the quarter. Furthermore, the GOC argues that there are no surcharges by financial intermediaries on BANCOLDEX loans for the portion of the loan provided by the financial intermediary.

Department's Position: We agree with respondents. The Department determines that the nominal and effective interest rates are equivalent. In addition, the Department verified that there are no surcharges by financial intermediaries on BANCOLDEX loans for the portion of the loan provided by the financial intermediary. Therefore, we will continue using nominal interest rates (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations*, 60 FR at 42542 (August 16, 1995).

Comment 10: The FTC contends that the Department must determine whether Colombian flower growers/exporters have received U.S. Dollar (Dollar) loans at preferential interest rates. To the extent that the suspension agreements restrict the Department's ability to administer the law, the FTC asserts that the agreements must be terminated or amended for the POR.

Respondents state that, as noted in its original case brief in connection with the 1991–1992 annual review periods, BANCOLDEX's dollar-denominated loans are not financed by the GOC and are therefore non-countervailable.

Department's Position: We disagree with respondents. It is long-standing Department policy that loans from certain international institutions, such as the World Bank or the Inter-American Development Bank (IADB), are not countervailable subsidies. However, Dollar loans administered by BANCOLDEX are potentially countervailable and the Department has calculated dollar benchmarks accordingly (as discussed in Comment 11 below) (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended*

Investigations 60 FR at 42543 (August 16, 1995).

Comment 11: The FTC asserts that, by using the annual weighted-average effective U.S. prime lending rates reported in the *Federal Reserve*, rather than one quarter of 1994 as done in the preliminary determination for the 1991–1992 review periods, the Department would find that the dollar-denominated BANCOLDEX loans issued during these PORs were preferential (the weighted-average U.S. lending rate for 1992 was 8.72 percent, compared to the dollar denominated loans issued to the five leading exporters of roses and minis in 1992) (See Public questionnaire response). Consequently, the FTC requests that the Department either terminate the suspension agreements or remove their reference to benchmarks and determine compliance with the suspension agreements based on current rates for the review period.

Department's Position: The Department in its final results in connection with the 1991–1992 annual review periods agreed with respondents that the calculation of the dollar loan benchmark in the Department's preliminary results was incorrect because it was not necessarily representative of dollar-based interest rates in Colombia. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations*, 60 FR 42543 (August 16, 1995). We corrected this error in the 1993 preliminary results of review. Consequently, this issue does not apply to the current POR.

Comment 12: The FTC asserts that according to 19 CFR 355.19(b), the Department can revise the suspension agreements if it ''has reason to believe that the signatory government or exporters have violated an agreement or that an agreement no longer meets the requirements of section 704(d)(1) of the Act.'' The FTC claims that respondents have violated the terms of the suspension agreements during the PORs (See Comments 6 and 10).

The GOC argues that all Colombian flower producers/exporters of minis and roses have fully complied with the terms of their respective suspension agreements and that it supports the Department's past policy of having suspension agreements be forward-looking, and that the Department sets benchmarks interest rates prospectively. The GOC asserts that there is no need to amend or clarify the suspension agreements and it was inappropriate for the Department to have requested comments from interested parties for the following reasons: first, the suspension agreements cannot be unilaterally amended or clarified by the Department or the Colombian flower growers/exporters. Second, the Department has no power to amend or clarify the agreements without the consent of all signatories. Third, the Department should first raise the issue with the signatories and negotiate an amendment, which then can be subject to public comments (See 19 CFR 355.18(g)).

The GOC contends that there is no basis for considering to amend the suspension agreements. Because dollar loans were provided by international financial institutions, the GOC asserts that the loans are non-countervailable and there is no need for the Department to determine whether these loans were granted on non-preferential terms.

The GOC argues that based on FTC's proposed amendments of the suspension agreements (See Comment 5), no Colombian flower grower/exporter would sign such an agreement where signatories would agree to a blanket commitment that all PROEXPO/BANCOLDEX loans have to be ''non-preferential'' without any understanding as to how the Department would interpret that term. Further, the GOC argues that suspension agreements are supposed to provide certainty so that when BANCOLDEX loans are issued, the GOC knows what rate must be charged to comply with the suspension agreements.

Department's Position: The Department has determined not to initiate an amendment to the suspension agreements, based on the information received. The Secretary has no reason to believe at this time that the exporters of the subject merchandise have violated the suspension agreements or that the agreements no longer meet the requirements of section 704(d)(1). Consequently, the Department will not currently renegotiate the suspension agreements with the GOC and the producers/exporters of the subject merchandises nor will it terminate the suspension agreements, nor will it reopen the investigation. (See *Roses and Other Cut Flowers from Colombia: Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations* 60 FR 42544 (August 16, 1995).

Refinancing Outstanding Dollar and Peso Loans

At the time of the final results of the 1991–1992 reviews, the GOC asserted that if any dollar loans needed to be refinanced or repaid, the Department should grant 90 days after the publication of the final results for the process of refinancing to occur. This is the same period initially established in the minis suspension agreement (See 52 FR 1355, para. II.B., 1986, and *Roses and Other Cut Flowers from Colombia; Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Reviews of Suspended Investigations*, 60 FR 42544 (Comment 11) (August 16, 1995)).

For the 1993 POR, the Department determines that the effective date for completing the repayment and/or refinancing of any outstanding dollar and peso loans to meet the new short and long-term dollar and peso benchmarks is 90 days after publication of these final results in the Federal Register.

Final Results of Reviews

After considering all of the comments received, we determine that the GOC and the Colombian flower growers/exporters of the subject merchandise have complied with the terms of the suspension agreements for the period January 1, 1993, through December 31, 1993. In addition, we determine that the peso and dollar benchmarks established in this final notice will be effective 14 days after the date of publication of this notice. Moreover, the Department determines that the effective date for completing the repayment and/or refinancing for any outstanding peso and dollar loans to meet the new short- and long-term benchmarks is 90 days after publication of these final results in the Federal Register.

This administrative review and notice are in accordance with sections 751(a)(1)(C) of the Tariff Act (19 U.S.C. 1675(a)(1)(C) and 19 CFR 355.22 and 355.25.

Dated: February 28, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

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Notice: Change in Policy Regarding Currency Conversions

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

SUMMARY: The Department of Commerce (''the Department'') has revised its policy regarding currency conversions to conform to changes resulting from the Uruguay Round Agreements Act (''the URAA''). We are now announcing this change in methodology and the accompanying computer code and