Live Swine From Canada

Investigation No.731-TA-1076 (Final)

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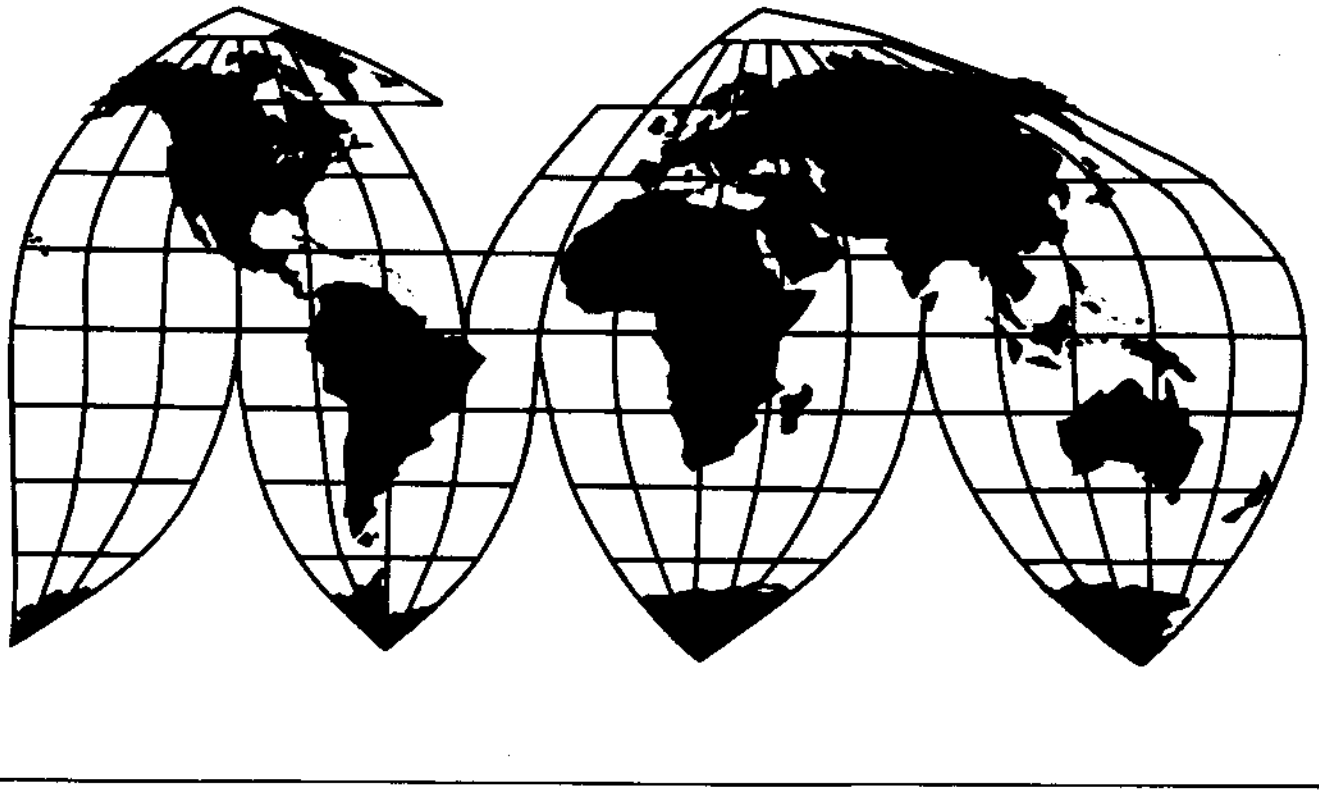
U.S. International Trade Commission



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Note–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by astericks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1076 (Final)

LIVE SWINE FROM CANADA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of live swine, provided for in subheadings 0103.91.00 and 0103.92.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective March 5, 2004, following receipt of a petition filed with the Commission and Commerce by the National Pork Producers Council, Washington, DC, and numerous state associations and individual producers. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of live swine from Canada were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 17, 2004 (69 FR 67364). The hearing was held in Washington, DC, on March 8, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of live swine from Canada that are sold in the United States at less than fair value (LTFV).[1] [2]

I. BACKGROUND

The petition for antidumping and countervailing duties was filed on March 5, 2004, by the National Pork Producers Council and numerous state associations and individual swine producers. Participating respondents include the Canadian Pork Council, the Manitoba Pork Council and several individual Canadian producers and exporters, the Ontario Pork Producers' Marketing Board ("Ontario Pork"), and Baxter Transportation, Ltd., J. Quintaine & Son, Ltd., and Zantingh Swine Inc. ("Baxter *et al.*"), the latter three of which are exporters and importers of sows and boars. Petitioners and respondents all filed pre- and posthearing briefs, and all except respondents Baxter *et al.* filed final comments in the final phase of this investigation.

Live swine are grouped into weanlings, feeder animals (termed feeder pigs in the remainder of these views), and slaughter animals (termed slaughter hogs or market hogs in the remainder of these views). With respect to domestically-produced live swine, channels of distribution have become increasingly specialized and integrated to accommodate demand for specific sizes and types of swine. Hogs are no longer delivered to public markets where buyers browse and choose the size and type of swine they desire. Feeder swine are, for the most part, sold directly from farm to farm; transactions may be based on long-term contracts or existing relationships with brokers and dealers. Slaughter hogs are typically sold directly from producers to packers. Most non-packer-owned slaughter hogs are sold under some form of market agreement.[3] The majority of subject imports, as measured by number of head, are weanlings or feeder pigs that are then fattened to slaughter weight; the remainder consists of slaughter hogs.[4] The former are imported/purchased by U.S. finishers who feed them until they grow to full slaughter weight. Live swine for immediate slaughter are primarily imported/purchased by meat packers.[5]

In 2004, there were 69,420 operations producing live swine in the United States. The most prevalent form of raising live swine is a grower/finisher (finishing only) operation, whether measured by number of farms or head sold. Other live swine producers include farrow-to-weanling, weanling-to-

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[1] Commerce determined that countervailable subsidies are not being provided to producers or exporters of live swine from Canada. 70 Fed. Reg. 12186 (Mar. 11, 2005). Accordingly, the Commission terminated its countervailing duty investigation of live swine. Whether or not the establishment of an industry in the United States is materially retarded is not an issue in this investigation. See 19 U.S.C. § 1673d(b)(1)(B).

[2] Commissioner Daniel R. Pearson not participating.

[3] CR at I-13, PR at I-10.

[4] CR at IV-1, PR at IV-1. As described later, we have considered imports mainly in terms of weight, given the wide disparity in the size of swine at different stages of production.

[5] CR at VII-10, PR at VII-7.

feeder (nurseries), farrow-to-feeder, and farrow-to-finish producers.[6] A major trend in the U.S. industry is toward fewer and larger hog operations.[7]

As described below, subject imports grew steadily over the period examined, but reached only modest levels. Two-thirds of the subject imports were weanlings and feeder pigs that were used by U.S. producers to produce market hogs. Despite the growth in imports, the domestic industry's production and shipments increased over the period and, after suffering two years of negative net income in 2002 and 2003, the industry earned high levels of profits in 2004 and is poised for continued strong performance in 2005.

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] Section 771(4)(A) of the Tariff Act of 1930, as amended (the Act), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[9] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[10]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[11] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[12] The Commission looks for clear dividing lines among possible like products and disregards minor

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[6] Farrow-to-weanling producers are involved in the breeding of sows and maintaining them during pregnancy, as well as caring for the baby pigs until weaned. Weanling-to-feeder producers care for weaned pigs until they weigh 30 to 80 pounds. Farrow-to-feeder pig producers are involved in the breeding and care of baby pigs until weaned, as well as the care of weanlings. Farrow-to-finish producers complete all production stages – from breeding to growing to slaughter weight. Finishing, or grower/finishing operations, feed hogs from nursery weight to slaughter weight. CR at I-7 - I-8, PR at I-6.

[7] CR at III-1, PR at III-1.

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

[11] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, when appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[12] See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

variations.[13] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[14]

B. Product Description

In its final determination, Commerce defined the live swine subject to this investigation as:

> all live swine ("swine" or "subject merchandise") from Canada except breeding stock swine. Live swine are defined as four-legged, monogastric (single-chambered stomach), litter-bearing (litters typically range from 8 to 12 animals), of the species *sus scrofa domesticus*. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States ("HTSUS")* subheadings 0103.91.00 and 0103.92.00,
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> Specifically excluded from this scope are breeding stock, including U.S. Department of Agriculture ("USDA") certified purebred breeding stock and all other breeding stock.[15]

As noted above, live swine consist of weanlings, feeder pigs and slaughter/market hogs. A weanling is any weaned pig that is placed in a nursery.[16] Weanlings generally weigh 10 to 15 or 20 pounds when they are removed from their sow, and remain in a nursery for about 6 to 10 weeks until they weigh 30-80 (usually 40-60) pounds, at which time they are considered to be feeder pigs that are then fed until they reach slaughter weight. The "processing" of weanlings and feeder pigs into slaughter hogs consists principally of feeding and housing the animals. USDA standards differentiate feeder pigs and slaughter hogs by their intended use: feeder pigs are those destined to be slaughtered after a period of

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[13] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[14] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations in which Commerce found five classes or kinds).

[15] 70 Fed. Reg. 12181, 12182 (Mar. 11, 2005).

[16] "Segregated early-weaned" ("SEW"), the United States terminology, and "isoweaned," the Canadian terminology, refer to pigs with higher health status than that of traditional production methods because of the management practices used to produce them. SEW pigs are pigs that have been removed from the sow while they still possess high levels of passive immunity imparted from colostrum (the first milk from the sow at farrowing time; it transmits passive immunities that protect pigs from diseases until they develop active immunity to disease). SEW pigs are generally weaned at between 14 and 17 days of age, with 19 to 20 days of age being a practical limit; they weigh between 10 and 15 pounds when weaned. This process reduces the pig's exposure to diseases (primarily respiratory diseases) that reduce performance in the nursery and grower/finisher phases. To maintain this health status and the potential benefits, these pigs must be isolated from pigs of other ages and from other source herds, hence the term "isowean" used in Canada. These pigs perform best when used in all-in/all-out management systems. CR at I-6 n.16, at I-5 n.16.

feeding,[17] and slaughter hogs are those intended to be slaughtered immediately. Feeder pigs normally weigh less than slaughter hogs, as the feeder pigs by definition must be fed and fattened to slaughter weight. Pigs are in the feeder stage for about four months. Slaughter hogs normally consist of barrows and gilts that typically are six months old and usually weigh 240 to 280 pounds, and sows and boars that typically are three-to-five years old and weigh from 400-600 and 500-700 pounds, respectively.[18]

C. Analysis

In the preliminary phase of the investigation, the Commission addressed two like product issues: whether weanlings, feeder pigs and market hogs are separate domestic like products, and whether sows and boars are separate domestic like products from other live swine. The Commission found that weanlings, feeder pigs and market hogs comprise one domestic like product, based on the dedication of weanlings and feeder pigs to hog production, the similarities in essential physical characteristics of live swine at the various stages of development, and the technologically uncomplicated nature of the further processing that weanlings and feeder pigs undergo.[19] The Commission also included sows and boars in the same domestic like product as other live swine, because they all share certain general physical characteristics and are generally raised at the same facilities for a certain time period during their stages of development, and all are ultimately sold for slaughter.[20] However, the Commission stated that it would revisit the issue pertaining to sows and boars in the final phase of the investigation.[21]

Petitioners contend that sows and boars, like other live swine, are ultimately destined for the meat packer and should be included in the same domestic like product as other live swine.[22] Respondents Manitoba Pork Council and several individual Canadian producers and exporters ("Manitoba Pork Council *et al.*"), as well as Baxter *et al.* argue that sows and boars are sufficiently different to be considered to be a separate like product.[23]

As we did in the preliminary phase of this investigation, we consider the issue of whether sows and boars are a separate domestic like product under the Commission's traditional six-factor analysis. As discussed below, the factors are somewhat mixed in terms of whether they show a clear dividing line between sows and boars as opposed to other live swine. We note that, as breeding stock, sows and boars are outside the scope of the investigation, but are used to produce products within the scope of the investigation (barrows and gilts) and then, at the end of their useful lives, become products within the scope of the investigation, as slaughter sows and boars. Of greater significance to our analysis, however, is the fact that the primary use of sows and boars is as breeding stock and they are considered to be productive assets by live swine producers. Their eventual slaughter for meat is incidental to their

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[17] This classification does not make a distinction among pigs by weight or age; consequently, as long as a pig is not to be immediately slaughtered (within two weeks), the animal would be classified as a feeder pig. CR at I-7 n.17, PR at I-6 n.17.

[18] CR at I-6 - I-7, PR at I-5 - I-6.

[19] Live Swine from Canada, Inv. Nos. 701-TA-438 (Preliminary), 731-TA-1076 (Preliminary), USITC Pub. 3693 at 8 (May 2004). The reasons we found in the preliminary phase of the investigation for deciding that weanlings, feeder pigs and market hogs constitute one domestic like product remain valid in this final phase. No party has contested that finding. Accordingly, we again make that finding.

[20] USITC Pub. 3693 at 8-10.

[21] USITC Pub. 3693 at 10.

[22] Petitioners' Prehearing Brief at 11.

[23] Manitoba Pork Council's *et al.* Prehearing Brief at 12 & Exh. 4 at 1; Baxter's *et al.* Prehearing Brief at 5-6; Baxter's *et al.* Prehearing Brief at 2 & Response to Commission Questions at 3.

purpose as breeding stock.[24] Defining a separate like product and industry for sows and boars thus would make little economic sense and would hinder our analysis.[25]

Physical Characteristics and Uses. Sows and boars are breeding stock. A sow is a mature female swine that usually shows evidence of having reproduced or having reached an advanced stage of pregnancy. A boar is an uncastrated male swine.[26] As breeding stock, sows and boars share with and impart to all other live swine their essential physical characteristics. At the end of their useful life as breeders, sows and boars, like market hogs, are slaughtered for use as meat.[27] Market hogs are generally used for table cuts, ham and bacon. Sows and boars are used for sausages and other spiced meats.[28] At slaughter weight sows and boars are larger than market hogs (barrows and gilts) – a sow typically weighs 400 to 600 pounds and a boar 500 to 700 pounds, whereas barrow/gilt market hogs weigh approximately 260 pounds.[29]

Manufacturing Facilities, Production Processes and Employees. In farrow-to-finish and farrowing only operations, sows and boars are maintained in the same facilities as other live swine. Finishing only operations do not maintain sows and boars.[30] There is nonetheless significant overlap among operations in all production stages, given that farrow-to-finish operations (which include sows, boars and market hogs) accounted for approximately 24 percent of all head sold in 2002.[31]

Interchangeability. The record indicates at most one-way interchangeability. Meat from barrows and gilts may be substituted for sow and boar meat for ground and processed products, although actual substitution is limited because of the higher prices of meat from barrows and gilts.[32] Sows and boars are not processed into fresh pork cuts, however, because of their gamier taste and smell.[33] Packers may use the trim from barrows and gilts for smoked and cooked products,[34] the same end uses as meat from sows and boars.

Channels of Distribution. Slaughter hogs are typically sold directly from producers to packers.[35] Sows and boars are generally sold to sow and boar brokers, who then resell them to sausage and specialty meat manufacturers.[36]

Producer and Customer Perceptions. Producers generally view sows and boars as productive assets in the production of market hogs.[37] They do not raise them for their slaughter meat, but rather sell them for salvage value when they reach the end of their productive lives.[38] The specialized uses of sow and boar meat suggest that it is viewed differently than the meat of barrows and gilts.

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[24] As a result, producers generally indicated that operating expenses specific to sows and boars are not separately tracked. CR at VI-8, PR at VI-7.

[25] See Ferrosilicon from Egypt, Inv. No. 731-TA-542 (Final), USITC Pub. 2688 (Oct. 1993), at I-7 & n.23.

[26] CR at I-6, PR at I-5.

[27] CR at I-7, I-12, I-14, PR at I-5 - I-6, I-9, I-10 - I-11.

[28] CR at I-13, I-15, PR at I-10 - I-11.

[29] CR at I-13 - I-14, PR at I-10.

[30] CR at I-14, PR at I-11.

[31] CR/PR at Table III-1.

[32] CR at I-15, PR at I-11.

[33] CR at I-15, PR at I-11.

[34] CR at I-15, PR at I-11.

[35] CR at I-13, PR at I-10.

[36] CR at I-16, PR at I-11.

[37] CR at VI-8, PR at VI-7.

[38] See CR at I-16, PR at I-12.

Price. In terms of price, on a per-pound basis, sows and boars are sold at a significant discount to the price of barrows and gilts.[39]

In summary, we find, as we did in the preliminary phase of the investigation, that all live swine, including sows and boars, share certain general physical characteristics and are generally raised at the same facilities for a certain time period during their stages of development. All are ultimately sold for slaughter and there is some interchangeability between sows and boars and other swine, albeit limited. While there are certain differences between sows and boars as compared with other live swine, we do not find the differences to be greater than the differences between weanlings and market hogs.[40] For example, weanlings, feeder pigs and market hogs differ greatly in size and cannot practically be substituted for each other, as is the case for market hogs versus sows and boars. That is, we do not find that there is a clear dividing line between market hogs on the one hand, and sows and boars on the other, for the purposes of this final determination.

On balance, then, we determine to include sows, boars, weanlings, feeder pigs and market hogs in the same domestic like product.[41]

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[42] In its preliminary determination, the Commission defined the domestic industry to include all operators involved in the production of the domestic like product, whether they are involved in one or several stages of hog production.[43] No party has disputed this finding and nothing in the record of this final phase of the investigation indicates that we should revisit our finding. Accordingly, and consistent with our definition of the domestic like product, we find one

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[39] CR at I-16, PR at I-12.

[40] We would reach the same decision utilizing our semifinished products analysis. Under that analysis, the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article, or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the cost or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles.

Weanlings, feeder pigs, market hogs, sows, and boars are all ultimately dedicated to the production of pork. Sows and boars are used to produce baby pigs, which become weanlings, which grow into feeder pigs and then into market hogs. Live swine at each stage of development are dedicated to progression to the next stage and ultimately to development as hogs for slaughter; thus, live swine have no independent use or function other than eventually to be slaughtered for meat. While the transformation from weanling to sow or boar is significant, it is not particularly complex and principally involves providing the appropriate feed for live swine at each stage of development. The primary expense for a live swine producer is the cost of feed. CR at V-1, PR at V-1. See Live Cattle from Canada, Inv. No. 731-TA-812 (Final), USITC Pub. 3255 (Nov. 1999), at 4 nn.11 & 12.

[41] See Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985) (all live swine one like product).

[42] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[43] USITC Pub. 3693 at 12.

domestic industry consisting of all domestic producers of weanlings, feeder pigs and market hogs, as well as all domestic producers of sows and boars.

B. Related Parties

In defining the domestic industry, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act.[44] In its preliminary determination, the Commission found that the record indicated that at least nine U.S. producers imported or purchased[45] imports of live swine between 2001 and 2003, and were potentially subject to exclusion under the related parties provision. Six of these firms purchased imports and three directly imported subject live swine. Because the record in the preliminary phase of the investigation was limited and no party disputed inclusion of the related parties, the Commission did not find it appropriate to exclude any of the identified producers from the domestic industry.[46]

In this final phase investigation, the record shows that two-thirds of subject imports (as measured by head) are weanlings and feeder pigs used by the domestic industry.[47] However, we have only identified a limited number of related parties in this industry of 69,420 producers.[48] The record of this final phase of the investigation indicates that two parties have corporate ties to Canadian firms,[49] while a

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[44] See 19 U.S.C. § 1677(4)(B)(ii)(II). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case. Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e. whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producers vis-a-vis the rest of the industry, i.e. whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997), at 14 n.81.

[45] A domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist when the domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (Sept. 2001), at 8-9. The record in this final investigation does not indicate the degree to which the producers were responsible for the importers' purchases, and whether the importers' purchases were substantial.

[46] USITC Pub. 3693 at 13-14.

[47] Tr. at 18 (Mr. Porter).

[48] In 2004, there were 69,420 swine operations in the United States. CR at III-1, PR at III-1.

[49] *** is related to a Canadian firm, ***. *** owns *** percent of ***. ***. CR at III-4. *** *** the petition, CR/PR at Table III-3; it represented *** percent of production in 2004. CR/PR at Table J-1.

*** is also related to a Canadian firm, ***, which is engaged in the production or the packing/slaughter of live swine. CR at III-4, PR at III-5. *** owns 100 percent of ***. Phone Conversation of Michael Szustakowski with *** (Mar. 29, 2005). *** *** the petition, CR/PR at Table III-3, and represented *** percent of production in

(continued...)

number of others imported subject swine from Canada or purchased subject imports during the period of investigation and may be deemed to be related parties on this basis. As in the preliminary phase of the investigation, no party argues that any related party should be excluded. Petitioners expressly state that it is not necessary to exclude any such producers,[50] as do the Manitoba Pork Council *et al.*[51]

***, an importer of subject merchandise, is the *** domestic producer and accounted for approximately *** percent of production in 2004.[52] It supports the petition.[53] *** imported swine from Canada because ***.[54] This producer had *** in 2004 and suffered *** in 2002 and 2003, similar to the industry as a whole.[55] Thus, the extent of any benefits from this producer's importations, at least compared to trends in profitability for the rest of the industry, is unclear. For this reason, and because no party has urged ***'s exclusion from the industry as a related party, we conclude that appropriate circumstances do not exist for its exclusion.

The remainder of the identified related parties that had corporate relationships with Canadian exporters or importers, or imported or purchased subject imports of swine during the period of investigation are quite small in size: ***. During the preliminary phase of the investigation five other domestic producers indicated that they purchased subject live swine during the period: ***.[56]

The information on the record regarding the reasons for importation of subject live swine by these domestic producers, as well as whether they actually imported or purchased subject imports, is limited. As with ***, they also experienced *** during the period of investigation.[57] It is unclear to what extent any of these producers is benefitting from the subject imports, especially in this cyclical industry, as explained below. In view of that fact, as well as the fact that no party has argued for exclusion of any related party, we find that appropriate circumstances do not exist to exclude any of the related parties from the domestic industry.

IV. NO MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS[58]

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[59] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but

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[49] (...continued)
2004. CR/PR at Table J-1.

[50] Petitioners' Prehearing Brief at 11.

[51] Manitoba Pork Council's *et al.* Prehearing Brief at 13.

[52] CR/PR at Table III-4.

[53] CR/PR at Table III-3.

[54] Staff verification report, ***, p. 5, Mar. 22, 2005.

[55] ***'s net income to net sales ratio was *** percent in 2002 and *** percent in 2003. It was *** percent in 2004. CR/PR at Table J-1.

[56] CR at J-3, PR at J-3.

[57] CR/PR at Table J-1.

[58] Negligibility is not an issue in this investigation. Subject live swine from Canada are not negligible under 19 U.S.C. § 1677(24) because they accounted for more than three percent of the volume of all such subject live swine imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition. CR/PR at Table IV-1.

[59] 19 U.S.C. § 1673d(b).

only in the context of U.S. production operations.[60] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[61] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[62] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[63]

A. Information Available in This Final Phase Investigation

The live swine industry in the United States is extremely large and dispersed.[64] Thus, forwarding questionnaires to even a substantial share of the thousands of domestic producers of the domestic like product – live swine at any stage of development – was impractical.[65] Nevertheless, the Commission did receive questionnaire responses from producers representing approximately 41.4 percent of U.S. production in 2004, including the five largest producers, who accounted for *** percent of U.S. production in 2004.[66] The Commission also gathered reliable, comprehensive and complete information for this investigation from secondary sources.[67] The parties concur in the use of all these data. The necessary domestic producer data were obtained primarily from questionnaire responses as well as from USDA data (for production volume).[68] Official import statistics were used for import data.[69] In addition, the Commission has obtained some information on the domestic industry from questionnaires that asked

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[60] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also, Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[61] 19 U.S.C. § 1677(7)(A).

[62] 19 U.S.C. § 1677(7)(C)(iii).

[63] Id.

[64] In 2004, there were 69,420 operations producing swine in the United States. CR at III-1, PR at III-1.

[65] The Court of International Trade has acknowledged that it would be "impractical given the time constraints for completing its investigation for the Commission to attempt to obtain absolute coverage utilizing questionnaires for "an industry comprised of more than 1,000 producers" in a final investigation. Chung Ling Co. v. United States, 805 F. Supp. 45, 49 (Ct. Int'l Trade 1992).

[66] CR at III-1, PR at III-1.

[67] The statute directs the Commission to "use the facts otherwise available" if the necessary information is not available on the record. 19 U.S.C. § 1677e. In this case, the secondary information comes from the type of independent sources that would normally be used for corroboration.

The Court of International Trade has supported use of secondary source data when the Commission determined that questionnaire responses did not provide an adequate basis for making its determination. Alberta Pork Producers' Mktg. Bd. v. United States, 669 F. Supp. 445, 460 (Ct. Int'l Trade 1987) ("statute permits the Commission to use the best information otherwise available, and nothing in the statute or regulations prevents the Commission from using information other than questionnaire responses when the Commission determines that the responses do not provide an adequate basis for making its determination"), aff'g Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final). See also Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F.Supp.2d 1353, 1381 (Ct. Int'l Trade 1999) (Court affirmed Commission's use of secondary sources for information rather than questionnaire responses), aff'g Live Cattle from Mexico, Inv. No. 731-TA-813 (Preliminary), USITC Pub. 3155 (Feb. 1999). We note that the petitioners themselves proposed that the Commission use secondary source data. See CR at III-1 n.1, PR at III-1 n.1.

[68] CR at I-2, PR at I-2, CR/PR at Table III-1. The data generally involved periods through 2004.

[69] CR at I-2, PR at I-2 & Appendix E.

narrative questions.[70] The Commission also has obtained some information from responses to the importers'/purchasers' questionnaires regarding pricing data on both domestically-produced and imported live swine.[71]

B. Conditions of Competition

In reaching our determination, we have considered the following conditions of competition that are distinctive to the U.S. live swine industry and provide the context for our analysis.[72]

1. Demand

The demand for live swine is a derived demand that is primarily determined by the demand for pork.[73] Pork demand is affected by a number of factors, including population growth, overall economic conditions, consumer tastes and habits, and developments with respect to alternative sources of meat protein such as beef and poultry.[74] As the United States is a major exporter of pork, developments in foreign markets can have a significant impact on demand for live swine as well.[75]

Most U.S. producers, brokers/distributors/importers and packers indicated that demand for swine increased from 2002 to 2004. Apparent U.S. consumption of live swine increased by 3.2 percent by head and by 3.9 percent by weight from 2002 to 2004.[76] As U.S. per capita consumption of pork has been relatively stable over that period,[77] growth in live swine consumption reflects U.S. population growth and growth in U.S. exports of pork. U.S. pork exports have increased annually for many years, reaching record high levels during the period examined.[78]

Swine producers and other market participants cited various demand-related factors as affecting the live swine market from 2002 to 2004.[79] Bovine spongiform encephalopathy (BSE), a disease affecting cattle, was discovered in Canada and in the United States in 2003.[80] Among other repercussions, BSE restricted Canadian and U.S. beef and cattle exports, thereby increasing demand for

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[70] The Commission sent producers' questionnaires to 184 producers of live swine, and its association questionnaire to 44 state pork associations. CR at III-3, PR at III-2. As noted, data obtained from the producers' questionnaires accounted for 41.4 percent of U.S. swine production in 2004. CR at III-1, PR at III-1. These data, along with USDA data, represent the information available with regard to consideration of impact.

[71] The Commission sent importer questionnaires to 43 brokers/distributors/importers, as well as to all U.S. producers that were sent producers' questionnaires. The Commission received 40 responses, including 18 that provided data. CR at IV-1, PR at IV-1.

[72] 19 U.S.C. § 1677(7)(C)(iii).

[73] CR at II-8, PR at II-5.

[74] See CR at II-8 - II-12, PR at II-5 - II-8, Tr. at 46-47, 133 (Dr. Lawrence).

[75] CR at II-8 - II-10, PR at II-5 - II-7.

[76] As measured by weight, apparent U.S. consumption increased from 26.6 billion pounds in 2002 to 26.9 billion pounds in 2003, then to 27.6 billion pounds in 2004. As measured by head, apparent U.S. consumption was 100.4 million head in 2002, 101.0 million head in 2003 and 103.6 million head in 2004. CR/PR at Table IV-4.

[77] Tr. at 134 (Dr. Lawrence), 262 (Dr. Prusa).

[78] CR at II-12, PR at II-8, CR/PR at Appendix F.

[79] CR at II-8 - II-11, III-24 - III-25, PR at II-5 - II-8, III-11 - III-12.

[80] CR at II-8 - II-9, at II-6.

U.S. exports of pork as a substitute for beef.[81] Reportedly, U.S. beef exports will be limited again in 2005 due to bans currently in place by major importing countries.[82]

Outbreaks of avian influenza (AI), a disease affecting poultry, occurred in Asia, resulting in the destruction of many flocks.[83] AI caused overseas markets to search for alternative sources of protein, such as pork. Epidemics of AI can last for years.[84]

The popularity of high-protein diets may have stimulated a rise in demand, as pork products are an essential component of these diets,[85] although, as noted above, per capita U.S. pork consumption has remained steady. The extent to which high-protein/low-carbohydrate diets will affect the market in the future is unclear.[86]

Other factors affecting pork demand include the lifting of Mexico's restrictions on U.S. exports of ham, Russia's 2002 restrictions on U.S. poultry exports, and recent reduced growth in the U.S. poultry industry.[87]

We do not find persuasive petitioners' arguments that the high demand for pork (and therefore live swine) in 2004 is likely to decrease significantly in the near future.[88] Record evidence indicates that demand remains strong in early 2005.[89] USDA data show that total consumption of pork, as measured by weight, is projected to increase from 19.7 million pounds in 2004 to 19.9 million pounds in 2005, and then to 20.3 million pounds in 2006.[90]

2. Supply

As noted above, U.S. swine accounts for the vast majority of the market, with swine from Canada accounting for the remainder. During the early to mid-1990s, many U.S. producers restructured their operations to take advantage of improved production techniques. A large portion of small- to mid-size family producers elected to focus on a specific phase of production rather than the entire farrow-to-finish production operation.[91] The industry restructuring has led many U.S. farmers to focus on the finishing phase of production, particularly in Corn Belt states with ready access to feed. The breeding of pigs, known as farrowing, is the portion of live swine production that involves the highest labor costs and the highest risk.[92] In 2002, U.S. finishing-only operations accounted for the highest number of head sold,

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[81] The inability of Canadian cattle producers to export also produced a glut which drove beef prices down in Canada, which reduced Canadian pork consumption, and in turn caused Canadian swine producers to turn to the United States for a market outlet. CR at II-9, PR at II-6.

[82] CR at II-9, PR at II-6.

[83] CR at II-10 - II-11, PR at II-7.

[84] CR at II-10, PR at II-7.

[85] CR at II-11, PR at II-8.

[86] CR at II-11, PR at II-8.

[87] CR at II-8 n.9, II-11, and III-24-25.

[88] See, e.g., Tr. at 44 (Dr. Grimes); Tr. at 46-47, 68 (Dr. Lawrence).

[89] Tr. at 12 (Mr. Rosenthal); Tr. at 69 (Dr. Lawrence). We note that the period of investigation for which we obtained information is 2002 to 2004.

[90] Manitoba Pork Council's *et al.* Posthearing Brief, Exh. 11 at Table 24.

[91] Tr. at 55 (Mr. Ledger).

[92] CR at I-8, I-9 n.26, I-12 n.36, PR at I-7 & I-7 n.26, I-9 n.36; Tr. at 29, 30-31 (Dr. Hayes). Health issues are particularly significant for farrowing operations. Porcine reproductive and respiratory syndrome ("PRRS"), which has caused financial losses to many U.S. swine producers, causes reproductive failure in females and respiratory tract (continued...)

60,393,074, with farrow-to-finishers constituting the next largest type of operation, with 45,959,882 head sold.[93]

The focus in the United States on finishing operations has meant increased subject weanling and feeder pig imports from Canadian sow herds.[94] Most U.S. imports of live swine currently consist of weanlings or feeder pigs.[95] This increase in Canadian supply began well before the period of investigation, as Canadian farmers, animal producers and provincial governments have promoted all livestock operations, not swine operations specifically, as growth industries since the mid-1990s.[96]

The level of breeding stock (the breeding herd) plays an important role in swine production and the swine market. The Canadian breeding herd has increased slightly over the period of investigation and the pig crop has increased by a greater amount.[97] In the United States, the breeding herd declined slightly over the period examined, while the pig crop increased slightly.[98] We attribute this latter occurrence to greater productive efficiency due to larger litter sizes.[99] The U.S. breeding herd remains larger than the Canadian herd, at approximately 6 million head during the period examined, as compared to approximately 1.6 million head of Canadian stock. In the early to mid-1990s, outside our period of investigation and when the industry began restructuring, the Canadian breeding stock increased and the U.S. breeding stock decreased.[100] As noted, the higher labor costs and higher risks of farrowing led some U.S. producers to switch to finishing-only operations. The record also indicates that Canadian producers may enjoy certain advantages for farrowing related to climate, lower geographic concentration and lower disease rates that U.S. producers do not experience.[101]

Another major trend in the U.S. live swine industry is toward fewer and larger hog operations. In 2004, there were 69,420 operations producing swine in the United States, down 9.0 percent from 76,250

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[92] (...continued)
illness in pigs of all ages and sex. CR at III-19 - III-20, PR at III-9 - III-10. Actinobacillus pleuropneumonia ("APP") and mycoplasma also affect production of swine. CR at III-22, PR at III-10.

[93] CR/PR at Table III-1.

[94] See CR at III-3, PR at III-5. There has been an increasing trend to specialize in specific stages of production such as (1) farrowing and nursery, (2) nursery only, or (3) growing/finishing only. Thus, it has become more typical for swine to be sold from one producer to another at the weanling or feeder pig stage of development. CR at I-12 - I-13, PR at I-10.

[95] CR/PR at Table IV-2.

[96] CR at VII-1, PR at VII-1. The Canadian Agriculture Income Stabilization ("CAIS") program is designed to provide assistance to producers that have been injured as a result of BSE or other factors, and paid producers $777 million in 2004. The Agriculture Revenue Stabilization Program ("ASRA") in Quebec attempts to stabilize farm incomes and has been described as yielding an average payment over the last 10 years of $15 per animal. CR at VII-2, PR at VII-1.

[97] Canadian breeding stock numbered 1.5 million head in 2002, 1.6 million head in 2003 and 1.6 million head in 2004. Canadian live swine production, in terms of the number of pigs born, was 32.4 million in 2002, 34.2 million in 2003 and 36.1 million in 2004. CR/PR at Table VII-1.

[98] U.S. breeding stock numbered 6.1 million in 2002, 6.0 million in 2003 and 6.0 million in 2004. Production was 101.7 million head in 2002, 101.5 million head in 2003 and 102.5 million head in 2004. CR/PR at Table III-7.

[99] CR at I-9, III-13, PR at I-7, III-5, CR/PR at Table III-7.

[100] CR/PR at Table IV-8.

[101] For producers, being disease-free is the most important factor in purchasing weanlings and feeder pigs. See CR/PR at Table II-3. While petitioners argue that Canadian government subsidies led to a larger Canadian breeding herd, more imports of weanlings and feeder pigs, and a U.S. switch out of farrowing, we find that other factors, noted above, clearly influenced the switch out of farrowing in the United States.

operations in 2002 and down 5.8 percent from 73,720 operations in 2003.[102] We note that there are various state and local regulatory constraints that affect the domestic live swine industry, namely zoning permit issues and environmental regulations and permits (e.g., manure application restrictions on crops), as well as issues pertaining to urban encroachment and proximity to non-farming neighbors.[103]

Some swine producers, in addition, are now integrated with packers, and other swine producers plan to enter into such an arrangement in the near future. Integrated producer-packer operations now account for approximately 25 percent of production, whereas five or six years ago the figure was approximately 10 percent.[104] In order to maintain their efficiency, packers require steady volumes of swine.[105] This requirement has, at least in part, driven the restructuring of the industry.[106]

3. Hog Cycle

A major characteristic of the live swine industry is the hog production cycle, a pattern of expansion and contraction in the number of hogs and pigs.[107] Historically, the hog production cycle has averaged about four years in length, including two years of expansion and two years of contraction (i.e. liquidating the herd). Cycles, however, have been as short as two years and as long as seven years.[108] The restructuring and consolidation of the industry has, however, changed the hog cycle such that supply fluctuations are less pronounced and are less responsive to price changes.[109]

4. Substitutability and Pricing

Live swine is generally considered to be a commodity product.[110] There is generally a high degree of substitutability between the U.S. product and subject imports at the same stage of

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[102] CR/PR at Table III-2.

[103] CR at III-14, PR at III-6. In addition, North Carolina has a moratorium on new hog facilities. CR at III-14, PR at III-6 n.9.

[104] Tr. at 119 (Dr. Grimes). A total of 20 packers, including the largest firms in the industry, submitted responses to the Commission's questionnaires. Of those 20, 9 function strictly as packers, while 11 are also engaged in one or more of several other operations, including farrowing, nursery operations, birth-to-feeder operations, growing/finishing operations, and farrow-to-finish operations. CR at II-12, PR at II-8.

[105] CR at III-23, PR at III-11; Tr. at 206 (Mr. Marks), 211 (Mr. Stevens).

[106] Ontario Pork's Prehearing Brief at 8-9; Tr. at 211-12 (Mr. Stevens).

[107] The hog cycle has traditionally operated as follows. During the expansion phase of the cycle, relatively high hog prices induce hog producers to retain sows and gilts for breeding rather than marketing them for slaughter. Initially, this reduces the number of hogs slaughtered, adding to the upward price pressure. Within eight to nine months of retaining and breeding gilts, a larger number of hogs is available for slaughter. The increased supply of slaughter hogs tends to put downward pressure on prices. This reduces the incentive for producers to retain gilts and increases the incentive to cull less productive sows. Thus begins the contraction phase of the cycle, which adds additional hogs to the supply available for slaughter and causes additional downward price pressure. Eventually, the supply of slaughter animals decreases sufficiently to create upward price pressure, and the cycle begins again. CR at II-1, PR at II-1.

[108] CR at II-1, PR at II-1. Expansion phases have been from one to five years in length, while liquidation phases have ranged from one to four years in length. CR at II-1, PR at II-1.

[109] See CR at II-1 - II-2, Figure II-1, PR at II-1, Figure II-1.

[110] CR at V-1, PR at V-1.

development.[111] Some producers and importers believe that the health status of subject live swine imports is better than that of U.S.-produced live swine.[112] While health issues are a significant concern in both countries, our data show a somewhat lower prevalence of PRRS (a major productivity-affecting ailment) in Canadian herds than U.S. herds.[113] Most brokers/distributors/importers ranked Canadian live swine as superior in availability and quality exceeding industry standards.[114]

Given the substitutability between the U.S. and Canadian product, there appears to be a single market for U.S. purchases of both U.S. and Canadian live swine. A majority of the packers also consider the United States and Canada to be a single market for swine and pork.[115] The prices in both markets tend to move in tandem.[116] In addition, U.S. and Canadian prices for live swine track each other closely, and evidence of underselling or overselling would not be expected.

U.S. producers sell more market hogs than feeder pigs,[117] whereas subject imports were primarily weanlings and feeder pigs.[118] Because of the lag between the time a weanling or feeder pig (approximately 20 days old to six to 10 weeks old) goes to market as a slaughter hog (166 to 180 days old), there is limited correlation between weanling and feeder pig prices and the prices for market hogs.[119]

C. Volume

Section 771(7)(C)(I) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[120]

The volume of subject imports from Canada increased over the period of investigation, both in weight and by head count.[121] As measured by weight, the volume of subject imports increased from ***

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[111] The vast majority of producers, brokers/distributors/importers and packers reported that U.S. and Canadian products are always or frequently interchangeable. CR/PR at Table II-6.

[112] CR at II-15, II-17, II-18 - II-20, PR at II-12, II-13, II-16.

[113] Compare CR/PR at Table III-13 with Table VII-5.

[114] CR at II-18, PR at II-14.

[115] CR at II-5, PR at II-3.

[116] See, e.g., Tr. at 29 (Dr. Hayes) 201 (Mr. Skinner); 213 (Mr. Stevens); 250 (Dr. Reilly); see also CR/PR at Figures V-2 - V-9, Tables V-1 - V-8.

[117] In 2004, U.S. producers' commercial sales of market hogs were 9.9 million head, while their sales of feeder pigs totaled 1.9 million head in that year. CR/PR at Table VI-1. Compare CR/PR at Tables V-4 - V-5 (market hogs) with Tables V-1 - V-3 (weanlings/feeder pigs).

[118] In 2004, imports of swine from Canada were as follows: 3.1 million head of swine weighing less than 7 kilograms each; 613,461 head of swine weighing between 7 and 23 kilograms, 1.9 million head of swine weighing between 7 and 50 kilograms; and 2.7 million head of swine for immediate slaughter. CR/PR at Table IV-2.

[119] Tr. at 89-90 (Dr. Lawrence); see CR at I-9 - I-10.

[120] 19 U.S.C. § 1677(7)(C)(i).

[121] We consider data by weight when available as the best unit of measure for comparison of data that includes live swine at different stages of development. A comparison based on head count would be less appropriate because swine are not equivalent or substitutable at different stages of development. The use of weight provides a uniform measure of size and value at each stage of development, and avoids the double-counting of subject imports of weanlings and feeder pigs that are raised in the United States to be slaughter hogs. However, we also provide data by head count, when available, in our analysis, and have relied on both in reaching our determination. See, e.g., Live

(continued...)

pounds in 2002 to *** pounds in 2003, then to *** pounds in 2004. As measured by head, the volume of subject imports increased from *** in 2002 to *** in 2003, then to *** in 2004.[122] The volume of subject imports as measured by value followed the same trend.[123]

While the increase in volumes was nominally large in percentage terms, relative to U.S. consumption the increase was small.[124] As measured by weight, subject import market share was *** percent in 2002, rising to *** percent in 2003 and to *** percent in 2004. As measured by head, subject import market share was *** percent in 2002, increasing to *** percent in 2003 and to *** percent in 2004.[125] The same holds true for the ratio of subject imports to U.S. production.[126]

Two-thirds of subject imports as measured by head are weanlings and feeder pigs.[127] These pigs, weighing no more than 40 to 60 pounds, are not immediately slaughtered, but must be fed by U.S. producers until they become market hogs at 240 to 280 pounds. A significant majority of the weight and value is added to these imports by swine producers in the United States. When slaughtered, these market hogs are products of the United States that provide revenue and income to members of the U.S. industry.[128] This fact further lessens the significance, for injury purposes, of the already relatively low level of subject imports. We therefore do not find these volumes or the increases to be significant, whether absolutely or relative to domestic production or consumption.

Compared to the volume of live swine shipped by domestic producers, subject import volumes were small. In addition, the domestic industry's U.S. shipments of live swine increased over the period.[129] Moreover, from 2003 to 2004, although subject imports continued to increase, U.S. producers' production, shipments, net sales, and exports all increased,[130] and U.S. prices rose.[131]

We are mindful that a relatively small volume of imports of an agricultural commodity product may be significant in terms of its effect on prices. However, based on the evidence in the final phase of this investigation, we find that the volume and market share are not significant even in the context of the conditions of competition for this agricultural industry, in light of the relatively small market share held by subject imports, the fact that two-thirds of the subject imports are used by U.S. producers to produce

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[121] (...continued)
Cattle from Canada, USITC Pub. 3255 at 13 n.91.

[122] CR/PR at Table IV-4.

[123] As measured by value, the volume of subject imports was $*** in 2002, $*** in 2003 and $*** in 2004. CR/PR at Table IV-1.

[124] U.S. producers' production was 101.7 million head in 2002, 101.5 million head in 2003 and 102.5 million head in 2004. CR/PR at Tables C-1.

[125] CR/PR at Table IV-5.

[126] The ratio of subject imports to U.S. production was *** percent in 2002, *** percent in 2003 and *** percent in 2004. CR/PR at Table IV-1.

[127] Tr. at 18 (Mr. Porter). In 2004, 5.6 million head of imports were weanlings or feeder pigs, compared to total imports of 8.5 million head. CR/PR at Table IV-2.

[128] As noted above, prices of one-month old weanlings and two-month old feeder pigs are not correlated with prices of the six-month old market hogs.

[129] As measured by weight, U.S. producers' U.S. shipments rose from 25.9 billion pounds in 2002 to 26.0 billion pounds in 2003, then to 26.6 billion pounds in 2004. As measured by head, U.S. producers' U.S. shipments were 94.7 million head in 2002, 93.6 million head in 2003 and 95.1 million head in 2004. As measured by value, U.S. producers' U.S. shipments increased from $8.6 billion dollars in 2002 to $9.7 billion dollars in 2003, then to $13.6 billion in 2004. CR/PR at Table III-8.

[130] CR/PR at Tables III-7, III-8, VI-1.

[131] CR/PR at Tables V-1 - V-8.

U.S. slaughter hogs and, as discussed below, the lack of significant price effects caused by the subject imports.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[132]

A number of factors affect the price of swine, including the hog cycle; the volume of hogs being marketed; their average weight, which affects the aggregate quantity of pork produced; the quality of the animals being marketed, which affects the level of premium and/or discount from the base price; the price of pork and pork byproducts; weather conditions; input costs; and transportation costs.[133]

Subject imports and the domestic like product, as previously discussed, are highly substitutable at the same stage of development, and price plays an important role in purchasing decisions.[134] However, for all groups, more responding firms deemed availability, quality and reliability of supply as very important factors in purchasing decisions than considered price to be a very important factor to that decision.[135]

The Commission obtained pricing data from the USDA and from questionnaire responses for 10-pound pigs, 40-pound pigs, 55-pound pigs, slaughter hogs (barrows and gilts), sows, and boars. The evidence of overselling and underselling was mixed. The various USDA and Commission data series show different amounts of underselling and overselling, with no clear pattern evident. Margins of underselling and overselling were typically under 10 percent.[136]

Prices for U.S. and Canadian market hogs rose substantially over the period investigated. Taking into account annual seasonal fluctuations, prices began to increase in mid-2003, well before the petition was filed in March 2004. In the fourth quarter of 2004, U.S. market hog prices were more than 70 percent above the level in the fourth quarter of 2002.[137] Prices for U.S. sows and boars also ended the period sharply above where they started.[138] Weanling and feeder pig prices showed less of a gain, but generally ended the period at or above prices at the beginning.[139] Accordingly, there is no evidence of price depression on the current record.

The record is similarly devoid of evidence of significant price suppression caused by subject imports. There is no evidence of a cost-price squeeze, as the ratio of expenses to net sales declined

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[132] 19 U.S.C. § 1677(7)(C)(ii).

[133] CR at V-1, PR at V-1.

[134] CR at II-12 - II-13, PR at II-8 - II-9.

[135] CR/PR at Tables II-3 - II-5.

[136] See CR/PR at Tables V-1 - V-8.

[137] CR/PR at Tables V-4, V-5.

[138] CR/PR at Tables V-6 - V-8.

[139] CR/PR at Tables V-1 - V-3.

steadily over the period.[140] In fact, total expenses have declined slightly over the period, even as prices have risen.[141]

Petitioners argue that the presence of growing quantities of subject imports necessarily kept prices lower than what they would otherwise have been. However, there is little record evidence that this is the case. The rapid and substantial rise in market hog prices means that whatever effect subject import supply had on domestic prices was overwhelmed by market forces pushing prices higher. Indeed, it is unlikely that domestic prices could have increased much faster than they did. It is noteworthy that prices were highest in 2004, which is when the volume of subject imports was highest.[142] Accordingly, we do not find significant price suppression.

The fact that most subject imports, as measured by head, are weanling and feeder pigs also limits their impact on U.S. prices. Imports of weanling and feeder pigs have little immediate impact on market hog prices.[143] While these pigs eventually represent additional market hog supply when slaughtered, by that time they are U.S. products representing mostly U.S. value-added.

In view of the foregoing in conjunction with the fact that the increase in subject imports was small over the period of investigation, we find that there were no significant adverse price effects by reason of subject imports of live swine.[144]

E. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[145] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[146] [147]

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[140] The ratio of total expenses to net sales declined from 110.2 percent in 2002 to 103.8 percent in 2003, then to 82.3 percent in 2004. CR/PR at Table VI-1.

[141] Total expenses were $56.99 per hundredweight gain in 2001, $53.92 per hundredweight gain in 2002 and $56.39 per hundredweight gain in 2003. CR/PR at Table VI-5.

[142] While petitioners have submitted an economic analysis in support of their argument that the volume of subject imports must have a significant adverse effect on prices, we find that the record does not indicate any such current effect on prices and the Commission is entitled to rely on record evidence rather than economic models. See Ranchers-Cattlemen at 1380 (Commission is entitled to rely on evidence in record rather than models concerning the effects of Mexican imports on the U.S. cattle industry in terms of revenue and prices). Prices rose significantly over the period of investigation. Moreover, petitioners' economic analysis may have significant flaws, in that it lacks certain variables that should help explain the relationship among U.S. price, U.S. live swine supply, subject imports, and the domestic industry's financial performance. Memorandum EC-CC-010 (Apr. 4, 2005).

[143] Tr. at 89-90 (Dr. Lawrence).

[144] Petitioners made no lost sales allegations, and no lost revenue allegations that could be verified. CR at V-21, PR at V-15. We note that this is not surprising in a commodity agricultural product market.

[145] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[146] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148. We note, however, that for this

(continued...)

The condition of the domestic industry generally improved over the period of investigation.[148] U.S. producers' shipments of live swine increased between 2002 and 2004,[149] as did production.[150] Although the U.S. breeding herd declined during the period, the pig crop increased due to greater productivity.[151] The overall herd size grew 1.8 percent, which reflects producers' expectations for increased production.[152] While U.S. producers' market share decreased somewhat over the period, it remained quite high and continued to dominate the market at 91.8 percent (by head) and 96.3 percent (by weight) in 2004.[153]

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[146] (...continued)
industry, capacity utilization is not a useful measure because producers do not maintain excess capacity in the form of unused sows and gilts. Gilts that are not retained for breeding stock and sows that will not be bred for current production or are no longer needed for breeding are culled from the herd and slaughtered. Thus, the breeding herd can be viewed as being at or near 100 percent utilization at all times. CR at II-5, PR at II-4.

[147] The Act instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final affirmative determination for subject live swine from Canada, Commerce found a weighted-average dumping margin of 12.68 percent for Ontario Pork; 0.53 percent (*de minimis*) for Hytek, Inc.; 18.87 percent for Premium Pork Canada, Inc.; 4.64 percent for Excel Swine Services, Inc., and 10.63 percent for all others. 70 Fed. Reg. 12181, 12185 (Mar. 11, 2005).

[148] We have relied on both questionnaire data and USDA data in making our finding as to the impact of subject imports on the domestic industry. For financial data, we have mainly used questionnaire data, although financial information that was available from USDA was used as well (2004 USDA data had not yet been released). We have placed primary weight on financial questionnaire data reported on a calendar year basis or on the basis of a fiscal year ending on or after September 30, as these data better capture market developments during the latter part of 2004. We have also considered data reported on the basis of a fiscal year ending prior to September 30. See CR/PR at Tables V-1 - V-3.

[149] U.S. shipments were 25.9 billion pounds in 2002, 26.0 billion pounds in 2003 and 26.6 billion pounds in 2004. They were 94.7 million head in 2002, 93.6 million head in 2003 and 95.1 million head in 2004. In terms of value, U.S. producers' U.S. shipments were $8.6 billion in 2002, $9.7 billion in 2003 and $13.6 billion in 2004. CR/PR at Table III-8.

[150] U.S. production was 101.7 million head in 2002, 101.5 million head in 2003 and 102.5 million head in 2004. CR/PR at Table III-7.

[151] A decrease in breeding stock frequently indicates the intention to reduce future production. Production, however, has become more efficient, as pigs per litter and the number of head produced increased from 2003 to 2004. U.S. production (pigs born) decreased by less than 0.2 percent from 2002 to 2003, then increased by 0.8 percent in 2004. CR at III-13, PR at III-5.

[152] See CR at Table III-11. End-of-period inventories were 59.6 million head in 2002, 60.4 million head in 2003 and 60.6 million head in 2004. CR/PR at Table III-11.

[153] As measured by weight, U.S. producers' market share was 97.3 percent in 2002, 96.8 percent in 2003 and 96.3 percent in 2004. As measured by head, U.S. producers' market share was 94.3 percent in 2002, 92.6 percent in 2003 and 91.8 percent in 2004. In terms of value, U.S. producers' market share was 96.5 percent in 2002, 96.1 percent in 2003 and 96.2 percent in 2004. CR/PR at Table IV-5.

The average number of production and related workers increased slightly over the period of investigation, as did their hours worked.[154] Their wages also increased over the period.[155]

Sales of live swine increased between 2002 and 2004,[156] as did net income.[157] In fact, 2004 income far exceeded the cumulated losses suffered in 2002 and 2003, and these profits are expected to continue through 2005.[158] The industry's ratio of net income to sales was 17.7 percent in 2004.[159] We note that industry profits would have been even higher, except some producers used futures contracts to lock in prices at levels below their peak in 2004.[160] Most notably, net sales values and unit values increased[161] and prices rose,[162] particularly from 2003 to 2004, even as subject imports increased.[163]

Costs remained low during the period of investigation. While feed costs increased, they remained low[164] and other expenses – variable and fixed – declined through 2003, based on USDA data.[165] Questionnaire data indicate an increase in total expenses from 2002 through 2004.[166] We note that capital expenditures declined over the period examined,[167] but given the significant consolidation underway in the industry, this development is not unusual.

The robust condition of the domestic industry indicates that the small, albeit growing, volume of subject imports has had no significant adverse impact on the industry. The domestic industry's profits

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[154] The average number of production and related workers of responding firms was 9,316 in 2002, 9,375 in 2003 and 9,535 in 2004. Their hours worked totaled 22.3 million in 2002, 22.8 million in 2003 and 23.0 million in 2004. CR/PR at Table D-1.

[155] Wages paid to production and related workers of responding firms totaled $252.7 million in 2002, $258.8 million in 2003 and $264.5 million in 2004. CR/PR at Table D-1.

[156] Responding U.S. producers' total sales of live swine were 29.4 million head in 2002, 29.9 million head in 2003 and 31.4 million head in 2004. In terms of value, U.S. producers' total sales were $2.4 billion in 2002, $2.7 billion in 2003 and $3.7 billion in 2004. CR/PR at Table VI-1.

[157] Net income for live swine was a loss of $244.7 million in 2002, a loss of $101.4 million in 2003 and was a positive $646.3 million in 2004. CR/PR at Table VI-1.

[158] For the 13 weeks ending in January 2005, Murphy Brown/Smithfield reported profits of $145 million. For the 13 weeks ending in December 2004, PSF reported profits of $44 million. Tr. at 198 (Dr. Reilly). See also Tr. at 47 (Dr. Lawrence) (prices forecast to be profitable in 2005 because of continued strong demand).

[159] CR/PR at Table VI-1.

[160] Many companies use forward contracts, as well as futures and options contracts, to reduce the risk of market fluctuations. They also use derivatives to manage revenue and cost-related volatility. While reducing volatility, derivatives also limit the positive upside potential of commodity price movements. CR at VI-7 n.5, PR at VI-7 n.5.

[161] CR/PR at Table VI-1.

[162] CR/PR at Tables V-1 - V-8.

[163] CR/PR at Table IV-1.

[164] Per hundredweight gain, feed costs were $20.36 in 2001, $21.52 in 2002 and $22.05 in 2003. CR/PR at Table VI-5.

[165] Per hundredweight gain, fixed expenses were $12.17 in 2001, $11.97 in 2002 and $12.14 in 2003. Other variable expenses were $44.82 in 2001, $41.95 in 2002 and $44.25 in 2003. Total expenses were $56.99 in 2001, $53.92 in 2002 and $56.39 in 2003. CR/PR at Table VI-5.

[166] CR/PR at Table VI-1.

[167] Capital expenditures were $232.7 million in 2002, $90.4 million in 2003 and $62.0 million in 2004. CR/PR at Table C-1. One firm began production in 2002. New sow facilities were added, one of which was a 25,000-head facility begun in 1997 and completed in 2003. CR at III-13, PR at III-6.

belie any harm resulting from the increased subject imports.[168] The industry is not liquidating the herd, as described above.[169] Further, as explained above, we do not find either the volume of subject imports to be significant, or any adverse price effects resulting from the subject imports. The majority of the sales of subject imports are weanlings and feeder pigs that are used by U.S. producers to produce U.S. slaughter hogs. We find no correlation between increased subject imports and the condition of the domestic industry; in fact, the industry performed the best when imports were at their peak (in 2004). We thus do not find that subject imports have had a significant adverse impact on the domestic industry.

V. NO THREAT OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports from Canada by analyzing whether "further dumped . . . imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[170] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[171] In making our determination, we have considered all factors, including all conditions of

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[168] Petitioners argue that the domestic industry has performed worse financially since the early 1990s than it did in prior periods due to rising Canadian production and imports from Canada. They base this argument on costs and returns of swine operations in Iowa and southern Minnesota, as estimated by Iowa State University. See Petitioners' Prehearing Brief at 41 & Exh. 4; Petitioners' Posthearing Brief, Exh. 1 at 14 & Exh. 6; see also Manitoba Pork Council's *et al.* Prehearing Brief at 52-55 & Exh. 19; Ontario Pork's Prehearing Brief at 39-40 & Exh. 10; Tr. at 295-97 (Mr. McConnell). We are reluctant to place weight on information pertaining to periods so far removed from our period of investigation, as we do not have comprehensive data on conditions during those earlier periods. Additionally, because it is based on constructed values, the estimate does not represent the actual financial results of the U.S. swine-producing industry.

[169] We have considered the special nature of agriculture cases, as referred to in the legislative history of the Act.

> Because of the special nature of agriculture, including the cyclical nature of much of agriculture production, special problems exist in determining whether an agricultural industry is materially injured. For example, in the livestock sector, certain factors relating to the state of a particular industry within that sector may appear to indicate a favorable situation for that industry when in fact the opposite is true. Thus, gross sales and employment in the industry producing beef could be increasing at a time when economic loss is occurring, i.e., cattle herds are being liquidated because prices make the maintenance of the herds unprofitable.

S. Rep. No. 249, 96th Cong. 1st Sess. 88 (1979). We note that these conditions do not exist in this industry, as production and profitability increased during the period examined.

[170] 19 U.S.C. §§ 1673d(b) and 1677(7)(F)(ii).

[171] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Co. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). See also Calabrian Corp. v. United States, 797 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 1156, 98th Cong. 2d Sess. 174 (1984).

competition, that are relevant to this investigation,[172] and have determined that the domestic industry is not threatened with material injury by reason of the subject imports from Canada.

We do not find that subject imports will increase to significant levels in the imminent future. While large in percentage terms, the increases in volume during the period of investigation have resulted in relatively small volumes, whether measured by weight or by head,[173] and subject import market share has likewise not increased substantially.[174] USDA predicts that subject import market share will be flat in 2005 and through 2007 as well.[175] Canadian production, in terms of pigs born, increased only slightly over the period of investigation;[176] the growth in the Canadian breeding herd has slowed.[177] The bulk of any increase in subject imports is likely to continue to be weanlings and feeder pigs, which are the subject of contracts already in place, as discussed above, and which are used by U.S. producers to produce slaughter hogs.

We note that Canadian home market shipments have increased[178] and Canadian slaughter capacity is increasing.[179] Even though Canada primarily exports live swine to the United States,[180] the modest increase in production and shipments to the United States to date[181] does not indicate the likelihood of an imminent substantial increase in subject imports. The recent decline of the U.S. dollar may have an effect

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[172] 19 U.S.C. § 1677(7)(F)(I). Factor I regarding countervailable subsidies is inapplicable to this antidumping investigation because Commerce reached a negative determination in the companion countervailing duty investigation. 70 Fed. Reg. 12186. However, we consider the non-countervailable subsidies with respect to the argument that an increase in the size of the Canadian herd will lead to increased subject imports. Factor VI is not an issue in this investigation. Factor VII regarding raw and processed agricultural products is inapplicable, because this investigation does not involve a processed agricultural product. There is no evidence in the record of dumping findings or antidumping remedies in markets of foreign countries relevant to this investigation. 19 U.S.C. § 1677(7)(F)(iii); CR at VII-11, PR at VII-8.

[173] As measured by weight, the volume of subject imports increased from *** pounds in 2002 to *** pounds in 2003, then to *** pounds in 2004. As measured by head, the volume of subject imports increased from *** in 2002 to *** in 2003, then to *** in 2004. CR/PR at Table IV-1. We note that the trends in import volume and Canadian production during the period examined are no different than those observed over the last decade. There is evidence in the record of trends regarding the Canadian and U.S. breeding herds, as well as subject imports, dating from 10 years in the past, see CR/PR at Table D-2, Petitioners' Posthearing Brief at Exh. 7; see Petitioners' Prehearing Brief, Exh. 4.

[174] As measured by weight, subject import market share was *** percent in 2002, rising to *** percent in 2003 and to *** percent in 2004. As measured by head, subject import market share was *** percent in 2002, increasing to *** percent in 2003 and to *** percent in 2004. CR/PR at Table IV-5.

[175] Petitioners' Prehearing Brief, Exh. 3 (2/16/05 OsterDowJones Article).

[176] The Canadian pig crop increased from 32.4 million head in 2002 to 34.2 million head in 2003, then to 36.1 million head in 2004. CR/PR at Table VII-1.

[177] Canadian breeding stock increased from 1.5 million head in 2002 to 1.6 million head in 2003, and remained at 1.6 million head in 2004. CR/PR at Table VII-1.

[178] Home market shipments increased from 23.6 million head in 2002 to 24.0 million head in 2003, then to 24.5 million head in 2004. CR/PR at Table VII-1.

[179] The number of hogs slaughtered increased from 20.8 million in 2002 to 21.2 million in 2003, then to 21.7 million in 2004. CR/PR at Table VII-3. ***. CR at VII-6, PR at VII-4.

[180] There were no export shipments to other countries in 2003 and 2004. CR/PR at Table VII-1.

[181] Shipments of feeder pigs to the United States were 3.8 million head in 2002, 5.0 million head in 2003 and 5.6 million head in 2004. CR/PR at Table VII-1.

on the Canadian live swine industry, as it means the returns are lower for Canadian farmers on their exports to the United States.[182] Canadian end-of-period inventories were steady over the period.[183]

As noted above, the small volumes of subject imports are not currently having significant price-suppressing or depressing effects on domestic prices. In addition, domestic prices have increased significantly. The record does not indicate any likelihood that any increase in the volume and market share of imports from Canada will depress or suppress prices in the future to any significant degree. Moreover, given the high substitutability of U.S. and Canadian product, prices for both track each other very closely and we would not expect to see underselling or overselling of any consequence in the imminent future. Record evidence shows that futures prices are so favorable that U.S. producers are able to lock in by contract strong profits through 2005 into 2006.[184]

With respect to non-countervailable subsidies provided by the Canadian government to the Canadians, we do not agree with petitioners that they will lead to an increase in the size of the Canadian herd that will result in a significant increase in subject imports in the imminent future. While we may, in making our determination, consider these subsidies as we would any condition of competition that would arguably stimulate more exports to the United States, the record does not indicate that a substantial increase in subject imports is imminent as a result of any subsidies provided by the Canadian government.

We note that the domestic industry is experiencing a period of significant profitability and is not in a vulnerable state. There is no evidence in the record of an imminent decline in demand for pork, as packers require a steady supply of swine in order to operate efficiently, as described above, and any conclusion that issues related to BSE and AI (which appear to have helped spur U.S. pork exports) will disappear in the near future is speculative.[185] U.S. pork exports grew steadily prior to the onset of BSE and AI, as we described above as well. Moreover, aside from dietary preferences for high-protein/low-carbohydrate foods, U.S. per capita consumption has been relatively steady during the period examined and can be expected to increase as the population increases. The industry's profits are continuing into 2005 and, in view of the fact that strong demand is expected to continue throughout the year, we expect high prices and resulting profits to do so as well. In the context of the hog cycle and rising imports, the domestic industry is exhibiting strong performance. Moreover, feed costs are low relative to swine prices, as indicated above, and there is no indication in the record that they will increase significantly in the near future.

CONCLUSION

For the above-stated reasons, we determine that the domestic industry producing live swine is neither materially injured nor threatened with material injury by reason of subject imports of live swine from Canada that are sold in the United States at less than fair value.

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[182] CR at VII-7, PR at VII-5.

[183] End-of-period inventories were 14.7 million head in 2002, 14.6 million head in 2003 and 14.7 million head in 2004. CR/PR at Table VII-1.

[184] See Tr. at 16 (Mr. McConnell), 107 (Mr. Meyer); 185-86 (Mr. Durling), 204 (Mr. Marks), 207 (Mr. Marks) 213 (Mr. Stevens) 253 (Mr. Becker); see also Tr. at 99 (Mr. Mueller) (futures contracts hedge against price volatility).

[185] See CR at II-8 - II-11, PR at II-5 - II-8; Tr. at 307-08 (Mr. Machan)

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed on March 5, 2004, by the National Pork Producers Council, Washington, DC, and numerous state associations and individual swine producers, alleging that an industry in the United States is materially injured and threatened with further and continued material injury by reason of less-than-fair-value ("LTFV") imports of live swine[1] from Canada.[2] Information relating to the background of the investigation (and the terminated countervailing duty investigation) is provided below.[3]

Effective date	*Action*
March 5, 2004	Petition filed with Commerce and the Commission; institution of Commission investigations
April 14, 2004	Commerce's notice of initiation
May 11, 2004	Commission's preliminary determinations
August 23, 2004	Commerce's negative preliminary countervailing duty determination (69 FR 51800)
October 20, 2004 ...	Commerce's affirmative preliminary determination of sales at LTFV (69 FR 61639); scheduling of final phase of Commission investigations (69 FR 67364, November 17, 2004)
March 8, 2005	Commission's hearing[4]
March 11, 2005	Commerce's affirmative final determination of sales at LTFV (70 FR 12181); Commerce's negative final determination of countervailable subsidies (70 FR 12186)
April 6, 2005	Commission's vote
April 25, 2005	Commission's determination to Commerce

[1] For purposes of this investigation, "live swine," as defined by the U.S. Department of Commerce ("Commerce"), consists of four-legged, monogastric (single-chambered stomach), litter-bearing (litters typically range from 8 to 12 animals) animals, of the species *sus scrofa domesticus*, except breeding stock swine. Specifically excluded from the scope are breeding stock, including U.S. Department of Agriculture ("USDA") certified purebred breeding stock and all other breeding stock. Live swine are provided for in subheadings 0103.91 and 0103.92 of the Harmonized Tariff Schedule ("HTS"), and enter the United States free of duty from countries, such as Canada, given normal trade relations duty rates. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[2] Petitioners also alleged that an industry in the United States is materially injured and threatened with further and continued material injury by reason of subsidized imports of live swine from Canada. The Commission instituted countervailing duty investigation No. 701-TA-438 and made an affirmative preliminary determination, but Commerce made preliminary and final determinations that countervailable subsidies are not being provided to producers or exporters of live swine from Canada (70 FR 12186, March 11, 2005). Accordingly, the investigation on subsidies was terminated (70 FR 13542, March 21, 2005).

[3] *Federal Register* notices cited in the tabulation since November 17, 2004 are presented in app. A.

[4] App. B contains a list of witnesses appearing at the hearing.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. There are two major sources of data for the U.S. industry in this report: (1) USDA statistics, and (2) responses to Commission questionnaires. USDA data are presented in the body of this report because those data are far more complete than questionnaire data, and account for the entire U.S. industry. Data compiled from Commission questionnaire responses are incomplete in that they accounted for less than 50 percent of U.S. production of live swine in 2004, and are thus presented in an appendix (appendix D, table D-1); appendix table D-2 presents historical data from 1980 to 2004 covering the U.S. hog inventory, the U.S. pig crop, imports from Canada, and slaughter information. Financial data obtained from questionnaire responses are presented along with USDA data in Part VI of the body of the report. U.S. import data in the body of the report consist of official Commerce statistics.[5] Monthly import data responses are presented in appendix E.

PREVIOUS INVESTIGATIONS

In 1984, the Commission conducted a section 332 study on live swine entitled *Conditions of Competition between the U.S. and Canadian Live Swine and Pork Industries.*[6] In 1985, the Commission conducted a countervailing duty investigation on live swine and pork (fresh, chilled, or frozen) from Canada. Commerce found imports of live swine and pork to be subsidized by the Government of Canada. The Commission determined that the domestic industry producing live swine was materially injured by reason of subsidized imports of live swine from Canada, but that the domestic industry producing pork was not materially injured or threatened with material injury by subsidized imports.[7] Accordingly, countervailing duties were imposed on imports of live swine from Canada. In 1999, a sunset review of the countervailing duty order on live swine was conducted; Commerce determined that revocation of the order would not likely lead to continuation or recurrence of a countervailable subsidy and therefore the order was revoked.[8]

NATURE AND EXTENT OF SALES AT LTFV

On March 11, 2005, Commerce published its affirmative final determination concerning sales at LTFV.[9] Commerce's final weighted-average dumping margins are presented in the following tabulation:

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[5] All data reported in kilograms were converted to pounds using a ratio of 2.2046 pounds-per-kilogram.

[6] *Conditions of Competition Between the U.S. and Canadian Live Swine and Pork Industries*, Report to the United States Committee on Finance on Investigation No. 332-186 Under Section 332 of the Tariff Act of 1930, USITC Publication 1615, November 1984.

[7] *Live Swine and Pork from Canada, Investigation No. 701-TA-224 (Final)*, USITC Publication 1733, July 1985, p. 1.

[8] 64 FR 60301, November 4, 1999.

[9] 70 FR 12181, March 11, 2005. Commerce's period of investigation for its final determination of sales at LTFV was January 1, 2003, through December 31, 2003, corresponding to the four most recent fiscal quarters prior to the March 5, 2004 filing of the petition. In making its determination, Commerce compared export prices or constructed export prices to the normal value.

Exporter/manufacturer	Weighted-average dumping margin (Percent *ad valorem*)
Ontario Pork Producers' Marketing Board	12.68
Hytek, Inc	0.53 (*de minimis*)
Premium Pork Canada, Inc	18.87
Excel Swine Services, Inc	4.64
All others	10.63

U.S. TARIFF TREATMENT

Table I-1 presents current tariff rates for live swine. The general (normal trade relations) duty rate applicable to live swine from Canada is free. The live swine covered by the scope of these investigations is provided for in all the subheadings or statistical reporting numbers listed in the table except for HTS subheading 0103.10.00, which covers purebred breeding live swine (these animals have been excluded from the scope).

SUMMARY OF U.S. MARKET PARTICIPANTS

Participants in the U.S. market for live swine consist of the suppliers to the market such as U.S. producers (which can also be customers for live swine), Canadian producers and exporters, U.S. importers, and the ultimate customers for live swine, which are the packers.

Producers of live swine can consist of any of several types of operations, such as firms that raise pigs from birth to weaning; firms that raise pigs from birth to feeder pigs; firms that raise feeder pigs to appropriate slaughter weight; and firms that raise pigs from birth to slaughter.[10] A more detailed explanation of the types of swine and the definitions/categories of swine producers is presented in the section of this part of the report entitled "The Subject Product."

There are approximately 90 U.S. importers of live swine. Major importers include ***.[11] Virtually all imports are from Canada.[12]

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[10] There are approximately 69,000 U.S. producers of live swine. Only a few of these producers account for more than one percent of U.S. production (measured as pigs born). The largest producer, Smithfield, accounted for approximately *** percent of U.S. production in 2004. The next four largest U.S. producers accounted for 15.5 percent of U.S. production in 2004: ***.

Petitioning producers, the National Pork Producers Council and state pork associations, are represented in this investigation by the law firm of Collier Shannon Scott, PLLC.

[11] U.S. importers that are parties to this investigation are Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc. (all represented by the law firm of Serko & Simon LLP); importers represented by the law firm of Willkie Farr & Gallagher LLP; and Swift & Co. (represented by the law firm of Barnes, Richardson & Colburn).

[12] Canadian entities that are parties to this investigation are the Government of Canada (represented by the law firm of Hughes Hubbard & Reed LLP); the Government of Manitoba (represented by the law firm of McKenna, Long & Aldridge, LLP); the Gouvernement du Quebec (represented by the law firm of Paul, Hastings, Janofsky & Walker, LLP); the Canadian Pork Council and its members (represented by the law firm of Cameron & Hornbostel, LLP); and a number of producers, exporters, and trade associations represented by the law firm of Willkie Farr & Gallagher LLP; and the Ontario Pork Producers' Marketing Board (represented by the law firm of Hogan & Hartson LLP).

Table I-1
Live swine: Tariff rates, 2005

HTS subheading or statistical reporting number	Article description	General[1]	Column 2[2]
		Rates *(percent ad valorem)*	
0103.10.0000	Live swine, purebred breeding animals	Free	Free
0103.91.0010[3]	Live swine (other than purebred breeding animals) weighing less than 7 kilograms ("kg") each	Free	4.4. cents per kg
0103.91.0020[3]	Live swine (other than purebred breeding animals) weighing 7 kg or more but less than 23 kg each	Free	4.4 cents per kg
0103.91.0030[3]	Live swine (other than purebred breeding animals) weighing 23 kg or more but less than 50 kg each	Free	4.4 cents per kg
0103.92.0010	Live swine (other than purebred breeding animals) weighing 50 kg or more each, imported for immediate slaughter	Free	4.4 cents per kg
0103.92.0020[4]	Live swine (breeding animals other than purebred breeding animals) weighing 50 kg or more each	Free	4.4 cents per kg
0103.92.0091[4]	Other live swine weighing 50 kg or more each	Free	4.4 cents per kg

[1] Normal trade relations, formerly known as the most-favored-nation duty rate. Canada is among the countries that qualify for this duty rate. Because the normal trade relations duty rate for live swine is free, there is no "special" duty rate applicable under duty rate programs such as the Generalized System of Preferences and various free trade agreements.

[2] Applies to imports from countries that do not enjoy normal or preferential trade relations duty status.

[3] Prior to June 30, 2003, imports under HTS statistical reporting numbers 0103.91.0010, 0103.91.0020, and 0103.91.0030 were combined under HTS subheading 0103.91.00.

[4] Prior to January 1, 2005, imports under HTS statistical reporting numbers 0103.92.0020 and 0103.92.0091 were combined under HTS statistical reporting number 0103.92.0090.

Source: Harmonized Tariff Schedule of the United States (2005).

THE SUBJECT PRODUCT

The imported product subject to this investigation consists of all live swine from Canada except breeding stock swine. Live swine are defined by Commerce as four-legged, monogastric (single-chambered stomach), litter-bearing animals (litters typically range from 8 to 12 animals) of the species *sus scrofa domesticus*. Specifically excluded from the scope of the investigation are USDA-certified

purebred breeding stock and all other breeding stock.[13] In the remainder of this report, the term "swine" is used interchangeably with the term "live swine."

Classification of Live Swine

USDA standards define five classes of swine as follows:[14]

(1) *Barrow* – A barrow is a male swine castrated when young and before development of the secondary physical characteristics of a boar;
(2) *Gilt* – A gilt is a young female swine that has not produced young and has not reached an advanced stage of pregnancy;
(3) *Sow* – A sow is a mature female swine that usually shows evidence of having reproduced or having reached an advanced stage of pregnancy;
(4) *Boar* – A boar is an uncastrated male swine; and
(5) *Stag* – A stag is a male swine castrated after development or beginning of development of the secondary physical characteristics of a boar.[15]

Live swine are in common terminology grouped into weanlings, feeder animals (termed feeder pigs in the remainder of this report), and slaughter animals (termed slaughter hogs or market hogs in the remainder of this report). A *weanling* is any weaned pig that is placed in a nursery.[16] Weanlings generally weigh 10 to 15 or 20 pounds when they are removed from their sow, and remain in a nursery for about 6 to 10 weeks until they weigh 30-80 (usually 40-60) pounds, at which time they are considered to be feeder pigs that are then fed until they reach slaughter weight. The "processing" of weanlings and feeder pigs into slaughter hogs consists principally of feeding and housing the animals. USDA standards

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[13] As stated by Commerce, the designation of the product as "breeding stock" indicates the acceptability of the product for use as breeding live swine. This designation is presumed to indicate that these animals are being used for breeding stock only. 70 FR 12186, March 11, 2005.

All swine imported from Canada for purposes other than immediate slaughter must be accompanied by a veterinary health certificate. This certificate must be inspected at the port of entry by the Animal Plant Health Inspection Service veterinary (APHIS) inspector (*U.S. Code 9 CFR Sec. 93.517*). USDA's Agricultural Marketing Service (AMS) does not administer any programs to certify swine breeding stock (***, AMS, USDA, e-mail correspondence, March 23, 2004).

[14] USDA, AMS, §53.151, *United States Standards for Grades of Slaughter Swine*, January 14, 1985.

[15] Typical stags are somewhat coarse and lack balance – the head and shoulders are more fully developed than the hindquarter parts, bones and joints are large, the skin is thick and rough, and the hair is coarse. Boars typically are more balanced and have relatively more developed hindquarter parts, smaller bones and joints, thinner and smoother skin, and finer hair than stags.

[16] "Segregated early-weaned" ("SEW") (the United States terminology) and "isoweaned" (the Canadian terminology) refer to pigs with higher health status than that of traditional production methods because of the management practices used to produce them. SEW pigs are pigs that have been removed from the sow while they still possess high levels of passive immunity imparted from colostrum (the first milk from the sow at farrowing time; it transmits passive immunities which protect pigs from diseases until they develop active immunity to disease). SEW pigs are generally weaned at between 14 and 17 days of age, with 19 to 20 days of age being a practical limit; they weigh between 10 and 15 pounds when weaned. This process reduces the pig's exposure to diseases (primarily respiratory diseases) that reduce performance in the nursery and grower/finisher phases. To maintain this health status and the potential benefits, these pigs must be isolated from pigs of other ages and from other source herds, hence the term "isowean" used by the Canadians. These pigs perform best when used in all-in/all-out management systems, described later in this section of the report.

differentiate feeder pigs and slaughter hogs by their intended use: *feeder pigs* are those destined to be slaughtered after a period of feeding,[17] and *slaughter hogs* are those intended to be slaughtered immediately or in the near future.[18] Feeder pigs normally weigh less than slaughter hogs, as the feeder pigs by definition must be fed and fattened to slaughter weight. Pigs are in the feeder stage for about four months. Slaughter hogs normally consist of barrows and gilts that typically are six months old and usually weigh 240 to 280 pounds, and sows and boars that typically are three-to-five years old and weigh from 400-600 and 500-700 pounds, respectively.

Production Stages and Classification of Producers

Modern swine production has evolved into a four-stage process:

(1) *breeding and gestation*, which involves breeding females and maintaining them during pregnancy;
(2) *farrowing*, which involves the birth of baby pigs and their care until weaning;
(3) *nursery*, which involves the care of pigs from weaning until they weigh 30 to 80 pounds; and
(4) *finishing* (or growing/finishing), which involves feeding hogs from the nursery weight of 30 to 80 pounds to a typical slaughter weight of 225 to 300 pounds.[19]

Swine producers are commonly classified according to the stages of production that they conduct:[20]

(1) *farrow-to-weanling* producers (also known as weanling producers), which are in stages 1 and 2;
(2) *weanling-to-feeder pig* producers (also known as nurseries), which are in stage 3 only;
(3) *farrow-to-feeder pig* producers (also referred to as feeder pig producers), which are in stages 1, 2, and 3;
(4) *feeder-pig-to-finish* producers (also known as grower/finishers or finishers), which are in stage 4 only; and
(5) *farrow-to-finish* producers, which are operations that complete all four production stages.

Most producers are either classified as grower/finishers or farrow-to-finish producers.[21] How producers are classified determines the type of swine that they market. Farrow-to-weanling operations produce weanling pigs. Nurseries and farrow-to-feeder pig operations produce feeder pigs. Feeder-pig-to-finish operations[22] and farrow-to-finish operations primarily supply barrows and gilts to hog packing plants.

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[17] This classification does not make a distinction among pigs by weight or age; consequently, as long as a pig is not to be immediately slaughtered (within 2 weeks), the animal would be classified as a feeder pig.

[18] U.S. code defines that livestock imported "for immediate slaughter" shall be transported directly to a listed U.S. slaughter facility and must be slaughtered within two weeks of arrival. *U.S. Code 9 CFR Sec. 93.517.*

[19] William D. McBride and Nigel Key, *Economic and Structural Relationships in U.S. Hog Production*, USDA, Economic Research Service ("ERS"), AER-818, February 2003.

[20] Ibid.

[21] USDA, APHIS, VS, *Swine 2000, Part I: Reference of Swine Health and Management in the United States, 2000,* August 2001.

[22] In addition to the five producer classifications identified by McBride and Key, some producers are combining the nursery and grower/finisher phases of production, either with separate nursery and growing/finishing facilities or with specialized facilities that allow weanlings to remain in the same facility from weaning to sale for slaughter

(continued...)

There are a wide variety of facility types that can be and are used to produce swine in the United States. Some facilities may be specifically designed to facilitate specific management systems, such as all-in/all-out production systems [23] or facilities for the production of SEWs.[24] Furthermore, some types of facilities are not acceptable for the production of swine to be used to produce specialty pork. While some facilities may be more efficient than others at accommodating specific production systems, the ultimate final output, market hogs, is evaluated and priced based on carcass qualities regardless of the facilities and management processes used to produce them.

The level of labor and management skill associated with various production systems also varies. Early weaning, for example, requires a higher level of management and labor skill than the production of traditional feeder pigs. Therefore, while large farrowing and nursery operations may produce either early weaned pigs or traditional pigs, there would most likely be a period of learning required for a facility to switch from producing traditional feeder pigs to early weaned pigs, whereas a facility used to produce early weaned pigs could easily apply its skill level to the production of traditional feeder pigs.

Production Phases[25]

The process of producing hogs and pigs begins with breeding sows or gilts. Sows come into estrus and are ready to breed three to five days post-weaning. If not bred during this period, sows again come into estrus 21 days later. However, if not bred during the first estrus, reproductive efficiency is reduced. Therefore, most operations cull sows that are not bred during their first estrus after weaning.

Sows gestate for 113 to 116 days before giving birth, or farrowing. Sows typically farrow eight to 12 pigs. Pigs weigh about three pounds at birth, and nurse at the sow for five days to four weeks and are then weaned, usually by 20 days of age. However, small operations are more likely to wean pigs at an older age than large operations.

After weaning, pigs are moved to the nursery. This is the point at which pigs may be marketed as weanling pigs generally weighing 10 to 15 pounds. Nurseries are highly controlled environments. Pigs are typically kept in raised pens with slotted floors to keep them dry. Nurseries are heated and ventilated to maintain the optimal temperature, as high as 85 degrees at weaning, gradually dropping to 70 degrees as the pigs grow. Pigs typically remain in the nursery until they are 6 to 10 weeks old.[26] This is the point at which pigs may be marketed as feeder pigs usually weighing 40 to 60 pounds. Pigs leaving the nursery go to the growing/finishing phase.

During the growing/finishing phase, pigs are essentially allowed to eat until they achieve market weight, usually 240 to 280 pounds for barrows and gilts. Pigs in this phase grow best at 60 to 70 degrees, but they also generate large amounts of body heat. Consequently, ventilation to keep animals cool is

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[22] (...continued)
(transcript of the Commission's March 26, 2004, conference in the preliminary phase of the live swine investigations ("conference transcript"), pp. 19 (Caspers) and 52 (Ambrecht)).

[23] More than half of all producers practice all-in/all-out farrowing, as opposed to continuous-flow farrowing. All-in/all-out management means that every animal is removed from a room, building, or site, which is then cleaned and disinfected before new animals are placed in that facility.

[24] The production of SEWs or isowean pigs requires separate gestating and farrowing facilities.

[25] The description of the production process generally follows from *Ag 101, Pork Production*, U.S. Environmental Protection Agency, found at *http://www.epa.gov/agriculture/ag101/pork.html*, retrieved April 23, 2004, and is augmented with data from USDA, APHIS, VS, *Swine 2000, Part I: Reference of Swine Health and Management in the United States, 2000,* August 2001.

[26] Death loss averages 2.6 percent of pigs that enter a nursery. USDA, NAHMS, Swine 2000, Part I: Reference of Swine Health and Management in the United States, 2000, p. 21.

typically of greater concern than providing heat. Death loss ranges from 2.4 percent at small operations (fewer than 2,000 pigs) to 3.7 percent at operations with 10,000 or more pigs;[27] death loss at this phase of production is a significant economic loss because of the feed costs already incurred in older, larger pigs. Pigs are in the growing/finishing phase about 100 to 120 days, and are generally sent to market at 166 to 180 days from birth.

DOMESTIC LIKE PRODUCT

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.[28] The Commission may apply a "semifinished products analysis" to determine whether a product at an earlier stage of its production process is "like" a finished or further processed product.[29] The factors examined in the semifinished product analysis employed by the Commission consist of:

(1) whether the upstream product is dedicated to the production of the downstream product or has independent uses;
(2) whether there are separate markets for the upstream and downstream products;
(3) whether there are differences in the physical characteristics and functions of the upstream and downstream products;
(4) whether there are differences in the production costs and/or sales values (transfer values or market prices as appropriate) of the upstream and downstream products; and
(5) the significance and extent of the processes used to transform the upstream product into the downstream product.

In its determination in the preliminary phase of this investigation, the Commission considered two domestic like product issues: (1) whether (a) weanlings and feeder pigs, and (b) market hogs, are separate domestic like products, and (2) whether sows and boars are separate domestic like products from other live swine. After examining these issues, the Commission made a preliminary determination that

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[27] Ibid.

[28] Respondents Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc. support a traditional six-factor domestic like product analysis for the two domestic like products it supports: (1) sows and boars and (2) weanlings, feeder, and slaughter barrows and gilts (postconference brief of Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc., filed by Serko and Simon LLP, pp. 10-13 and Response to Questions of the Commission Staff, pp. 1-2). The Canadian Live Swine Exporter Coalition stated that for sows and boars the traditional six-factor domestic like product analysis is appropriate (Canadian Live Swine Exporter Coalition's postconference brief, app. 1, Answers to Questions of the Commission Staff, p. 2).

[29] Petitioners stated that "the Commission's semifinished products analysis is appropriate when analyzing whether a product at an earlier stage of its production process is 'like' a finished or further processed product" (petition, p. 45). The Canadian Live Swine Exporter Coalition stated that a "semifinished products analysis is appropriate for analyzing whether swine at earlier stages of development should be considered a separate like product from the 'finished' slaughter (market) animal" but added that for sows and boars a traditional six-factor domestic like product analysis is appropriate (Canadian Live Swine Exporter Coalition's postconference brief, app. 1, Answers to Questions of the Commission Staff, p. 2). In the preliminary phase of the investigation, the Canadian Pork Council analyzed the question of domestic like product in terms of both the Commission's traditional six-factor analysis and the semifinished products analysis (Canadian Pork Council's postconference brief, submitted by Cameron & Hornbostel LLP, pp. 2-23).

weanlings, feeder pigs, and market hogs, including sows and boars, are part of the domestic like product defined as all live swine coextensive with the scope of the investigation. The Commission stated that in any final phase investigations it would again explore the issue of including sows and boars in the same domestic like product as other live swine.[30] In deciding whether weanlings and feeder pigs are the same domestic like product as market hogs, the Commission applied the semifinished product analysis; in deciding whether sows and boars should be included in the same domestic like product as all live swine, the Commission used the "traditional" six-factor domestic like product analysis.

Five parties have commented on the issue of domestic like product. Petitioners stated that the domestic like product should consist of "live swine," coextensive with the scope of the investigation.[31] The Canadian Pork Council and its members, which in the preliminary phase of the investigation supported four domestic like products (hybrid sows and boars for breeding, sows and boars for slaughter, market hogs for slaughter, and weanlings and feeder pigs) now "accepts the Commission's definition of a single like product."[32] The Canadian Live Swine Exporters Coalition and respondents Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc. support two domestic like products: (1) sows and boars and (2) weanlings, feeder, and slaughter barrows and gilts (market hogs other than sows and boars).[33] The Ontario Pork Producers' Marketing Board stated that weanlings, feeder pigs, and barrows and gilts for slaughter are within the same domestic like product and takes no position on whether sows and boars are within the domestic like product.[34]

Weanlings, Feeder Pigs, and Slaughter Barrows and Gilts[35]

Weanlings grow into feeder pigs,[36] and feeder pigs grow into slaughter hogs. Weanlings and feeder pigs are different from slaughter hogs in weight and other characteristics and thus are not interchangeable with slaughter hogs; however, when they reach slaughter weight they become slaughter hogs (market hogs) and are sold for slaughter. Ultimately the end use for virtually all pigs and hogs is to be slaughtered for the production of pork and other products.

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[30] *Live Swine from Canada, Investigations Nos. 701-TA-438 (Preliminary) and 731-TA-1076 (Preliminary)*, USITC Publication 3693, May 2004, p. 10.

[31] Petitioners' prehearing brief, submitted by Collier Shannon Scott, PLLC, pp. 1 and 2. Petitioners stated that "live swine at each stage of development are dedicated to progression to the next stage and ultimately to development as fed swine for slaughter" (petition, p. 45) and "a pig is a pig is a pig" (conference transcript, p. 29 (Ambrecht), and petitioners' postconference brief, p. 4).

[32] Prehearing brief of the Canadian Pork Council and its members, p. 2.

[33] Prehearing brief of the Manitoba Pork Council *et al*, submitted by Willkie Farr & Gallagher LLP, exh. 4, and prehearing brief of Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc., filed by Serko & Simon LLP, pp. 2-19.

[34] Prehearing brief of the Ontario Pork Producers' Marketing Board, p. 4.

[35] In the preliminary phase of the investigation, the Commission applied the semifinished product analysis (and not the "traditional" six-factor analysis) in deciding whether weanlings and feeder pigs are the same domestic like product as market hogs. Accordingly, the organization of the domestic like product discussion for weanlings/feeder pigs/market hogs herein is not based on the traditional six-factor domestic like product analysis, although it addresses some of the six factors; it also addresses elements of the semifinished products analysis.

[36] Feeder pigs have been through an additional stage of production, the nursery stage, compared with weanlings. Feeder pigs typically weigh 40-60 pounds. They are normally commingled with pigs of other ages, and possibly with pigs from other herds. Therefore, these pigs are not assumed to have the same level of health status as weanlings.

Weanlings are produced by farrow-to-weanling producers (also known as weanling producers); farrow-to-feeder pig producers; and farrow-to-finish producers. Feeder pigs are produced by weanling-to-feeder pig producers (also known as nurseries); farrow-to-feeder pig producers; and farrow-to-finish producers. Slaughter hogs are produced by feeder-pig-to-finish producers (grower/finishers) and farrow-to-finish producers. There has been an increasing trend to specialize in specific stages of production such as (1) farrowing and nursery, (2) nursery only, or (3) growing/finishing only. Thus, it has become more typical for swine to be sold at the weanling or feeder pig stage of development. Regardless of the stage at which first marketed, however, all live swine are eventually sold for slaughter.

Most market hogs are slaughter barrows and gilts. These hogs are normally grown to weights of 240 to 280 pounds before slaughter. They are expected to be well muscled and lean. If not produced using any specially certified processes, such as organic processes, these hogs are typically purchased by a major packer to be slaughtered to produce commodity pork. If raised using specially certified procedures, they may be slaughtered by an independent toll processor and the pork will be marketed through a specialty marketer.

Channels of distribution have become increasingly specialized and integrated to accommodate demand for specific sizes and types of swine. Hogs are no longer delivered to public markets where buyers browse and choose the size and type of swine they desire. Feeder swine are, for the most part, sold directly from farm to farm; transactions may be based on long-term contracts or existing relationships with brokers and dealers. Slaughter hogs are typically sold directly from producers to packers. Most non-packer-owned slaughter hogs are sold under some form of market agreement.[37]

USDA price data on U.S. and Canadian 10-pound, 40-pound, and 50-pound pigs and on barrows and gilts and questionnaire price data on barrows and gilts, sows, and boars are presented in Part V of this report. Reported per-pound prices of 10-pound pigs are substantially below those of slaughter hogs. However, on a per-pound basis there appears to be some overlap between prices of feeder pigs and slaughter hogs.

Sows and Boars

Physical Characteristics and Uses

Sows and boars are breeding animals; they are slaughtered when, for various reasons, they can no longer function as such. At slaughter weight, they are much larger than barrows and gilts. A sow typically weighs from 400 to 600 pounds and a boar from 500 to 700 pounds, compared with barrow/gilt market hogs weighing about 260 pounds.[38] Sows and boars accounted for a relatively small portion (3.5 percent) of total Federally inspected hog slaughter in 2004;[39] nearly all of the hogs slaughtered in the United States consist of barrows and gilts, not sows and boars.[40] Upon slaughter, the meat of sows and boars is used for sausages and different uses than the meat of barrows and gilts; this is discussed further in the section entitled "Interchangeability and Customer and Producer Perceptions" below.

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[37] University of Missouri and Paragon Economics, U.S. Hog Marketing Contract Study, January 2004.

[38] Conference transcript, p. 160 (Hrapchak).

[39] USDA, NASS, Livestock Slaughter, January 2005, p. 11.

[40] The expanded use of artificial insemination in the hog industry has reduced the number of boars available for slaughter.

Manufacturing Facilities and Production Employees

Sows and boars are maintained in breeding and farrowing facilities. Barrows and gilts are raised in farrowing facilities, nurseries, and growing/finishing facilities until they are of optimum slaughter weight.

Most sows are slaughtered and the meat processed in specialized plants; the same is true for boar slaughter and processing. Plants that specialize in slaughtering barrows and gilts process table cuts such as pork loins, and do not slaughter sows and boars.[41]

Interchangeability and Customer and Producer Perceptions

Sows and boars are dedicated to reproduction, whereas barrows and gilts are dedicated to the production of pork and other products. Hormonal and other changes that occur in sows and boars make them unfit for the production of pork.[42]

Customers and producers perceive differences between (1) barrows and gilts and (2) sows and boars. Sows and boars typically weigh one-and-a-half to two times what barrows and gilts weigh. Furthermore, after reaching sexual maturity, the hog's weight gain consists of more fat than muscle, and various characteristics of the meat are altered that make it unsuitable for fresh pork cuts or for processing into ham and bacon. Therefore, sows and boars are slaughtered and processed in specialized plants and are processed into sausage and other highly processed products. While barrows and gilts may be processed into sausage and other highly processed products, sows and boars are not processed into fresh pork cuts.

Virtually all sow meat is used in the production of sausages, and boar meat is believed to be used primarily in well-spiced and highly flavored products. Boar meat requires special treatment as the meat may have a potential odor that consumers find objectionable.[43] Packers typically use barrows and gilts for fresh table cuts and may use the trim for smoked and cooked products. Meat from barrows and gilts may be substituted for sow and boar meat for ground and processed products; however, the likelihood of this occurring is limited since sow meat is typically cheaper (per pound) than that of barrows and gilts. Therefore, substitutability is not bi-directional.

Channels of Distribution

The processing companies for sows and boars differ from those for barrows and gilts. Sows and boars are generally sold to sow and boar brokers who then resell them to sausage and specialty meat manufacturers.[44]

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[41] Petition, p. 8.

[42] Postconference brief of Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc., filed by Serko & Simon LLP, p. 11.

[43] Petition, p. 8.

[44] Postconference brief of Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc., filed by Serko & Simon LLP, p. 11.

Price

On a per-pound basis, sows and boars are sold at a significant discount to the price of normal barrows and gilts.[45] The Commission's questionnaire sent to packers requested separate price data for barrows and gilts; sows; and boars. Price data compiled from questionnaire responses are presented in Part V of this report. The data indicate that prices for sows and boars, on a per-pound basis, are well below those of barrows and gilts in each quarter for which data were obtained.

[45] Canadian Live Swine Exporter Coalition's postconference brief, app. 1, Answers to Questions of the Commission Staff, p. 15. The Canadian Pork Council contends that "there are distinct markets and pricing for culled sows and boars compared to barrows and gilts" (Canadian Pork Council's postconference brief, p. 8). Moreover, prices of sows and boars are reportedly based on a set amount per hundredweight instead of on a carcass weight/meat characteristics formula common to the pricing of market hogs (postconference brief of Baxter Transport, Ltd.; J. Quintaine & Son, Ltd.; and Zantingh Swine, Inc., filed by Serko & Simon LLP, pp. 6-7).

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

THE HOG CYCLE

A major characteristic of the live swine industry is the hog production cycle, a pattern of expansion and contraction in the number of hogs and pigs.[1] It is a significant factor affecting the price of hogs and the profitability of hog producers. Relatively high hog prices induce hog producers to retain sows and gilts for breeding rather than marketing them for slaughter. Initially, this reduces the number of hogs slaughtered, adding to the upward price pressure. Within eight to nine months of retaining and breeding gilts, a larger number of hogs is available for slaughter. The increased supply of slaughter hogs tends to put downward pressure on prices. This reduces the incentive for producers to retain gilts and increases the incentive to cull less productive sows. This adds additional hogs to the supply available for slaughter, causing additional downward price pressure. Eventually, the supply of slaughter animals decreases sufficiently to create upward price pressure, and the cycle begins again.

The hog production cycle consists of an expansion phase and a liquidation phase. Historically, the hog production cycle has averaged about four years in length, including two years of expansion and two years of contraction. Cycles, however, have been as short as two years and as long as seven years. Expansion phases have been from one to five years in length, while liquidation phases have ranged from one to four years in length. Corresponding to the cycle in hog production, but in the opposite direction, is the hog price cycle.

U.S. producers and brokers/distributors/importers were asked to discuss the typical duration of the cycle and the current stage of the cycle. Responses to the question were widely varied. Twenty-nine responding producers provided estimates that the duration generally ranges from three to five years, with the majority reporting a length of four years.[2] Seven brokers/distributors/importers provided estimates of four and five years. The majority of producers and broker/distributor/importers did not attempt to judge at what stage the cycle is in at present. However, those that did reported that the industry is currently in the high price, high profitability stage.

U.S. producers and brokers/distributors/importers were also asked whether large volume hog farmers and integrated producers change their production differently in response to hog production cycles than do small farmers and independent hog producers. While responses were varied, many producers and brokers/distributors/importers stated that large firms are less likely to respond rapidly to changes in price because of their large investments, while small firms tend to be more flexible in adjusting production levels. One broker/distributor/importer stated that small producers are less likely to depend upon swine for their livelihood than large firms, and thus find it easier to enter and exit the market.

In line with the increasing integration of the industry and the tendency toward larger farms, fluctuations in the year-to-year volume of hog production have been less pronounced in recent years than in earlier years, and fluctuations in total inventories of hogs and breeding stocks have been less pronounced (see figures II-1 and II-2) .

Along with studies of the hog cycle, measures of the sensitivity of increased supplies of hogs on prices of prices of hogs have frequently been undertaken. This sensitivity, which is known as price

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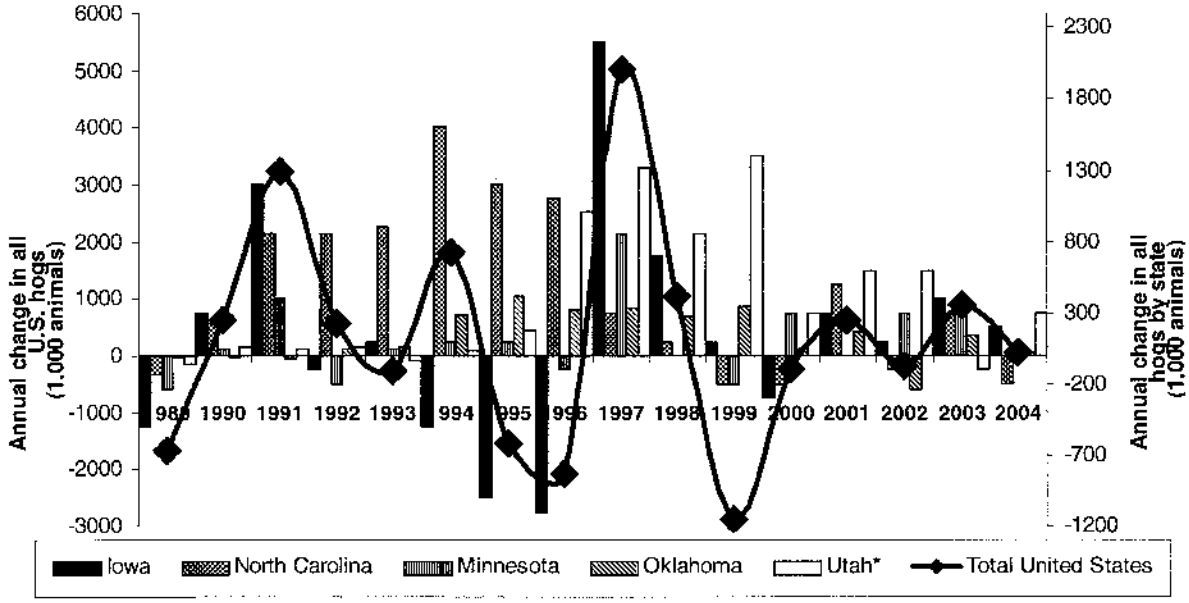
[1] Parts of this description of the hog cycle is generally summarized from Larry D. Stearns and Timothy A. Petry, *Hog Market Cycles, EC-1101,* North Dakota State University, NDSU Extension Service, January 1996, found at http://www.ext.nodak.edu/extpubs/ansci/swine/ec1101w.htm, retrieved April 21, 2004; and Gene A. Futrell, Allan G. Mueller, and Glenn Grimes, *Understanding Hog Production and Price Cycles, Marketing PIH-119,* Purdue University, Cooperative Extension Service, found at http://www.genome.iastate.edu/edu/PIH/119.html, retrieved April 21, 2004.

[2] A few firms stated that the industry has changed so much that the traditional hog cycle no longer exists.

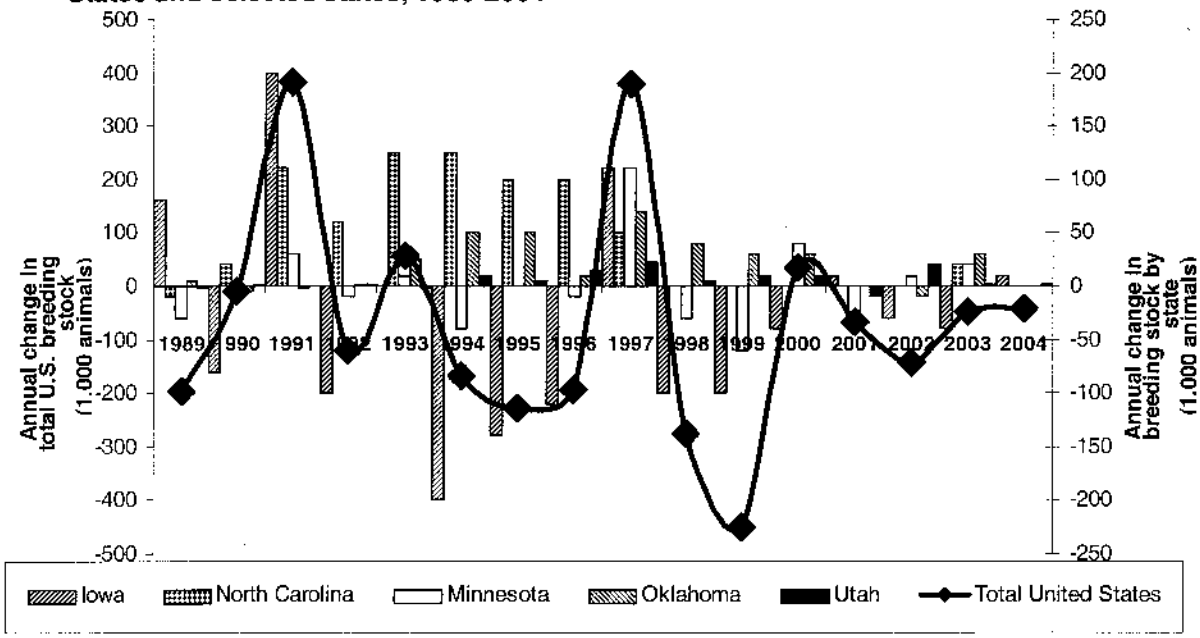
Figure II-1
The hog cycle and changes in the inventory of all hogs for the total United States and selected states, 1989-2004



Note: *Changes in Utah are 10 times actual change for scale.

Source: USDA: *Hogs and Pigs*.

Figure II-2
The hog cycle and changes in the inventory of breeding stock for the total United States and selected states, 1989-2004



Source: USDA: *Hogs and Pigs*.

flexibility, is usually determined by first measuring the annual percentage changes in hog prices and the annual percentage change in pork production over a number of years. This information is used to calculate the percentage change in hog prices that would result from a one percent change in U.S. pork production. A limitation of price flexibility analysis is that factors besides U.S. hog supplies may also influence hog prices. An example would be increases or decreases in demand for swine.[3] [4]

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

The market for live swine consists of separate market segments for weanlings, traditional feeder pigs, and slaughter hogs consisting of market hogs (barrows and gilts), sows, and boars. All categories of live swine from Canada are generally sold through the same or similar market channels as domestically produced live swine.[5] Weanlings and traditional feeder pigs are mostly sold through direct farm-to-farm sales between the producer and the grower/finisher.[6] Nearly all hogs sold for slaughter are sold directly to processing companies. Among slaughter hogs, the largest sales consist of finished barrows and gilts ready to be slaughtered and processed into fresh pork, ham, and bacon. This part of the industry is dominated by the large traditional packers including Cargill, Smithfield, Swift, and Tyson. In the case of sows and boars, the characteristics associated with additional growth and maturity affects body composition (lean-to-fat ratio) and other meat characteristics (taste and odor) that make the meat from sow and boars undesirable for fresh table pork. Therefore, the primary purchasers of sows and boars are sausage makers that use the meat primarily in highly processed and highly seasoned sausage and further processed products.

A majority of the packers consider the United States and Canada to be a single market for swine and pork. When asked whether a single North American market for swine exists, 11 of 20 packers said yes and 9 said no. When asked the same question concerning pork, 12 said yes, and 8 said no.

Information on quantities of live swine slaughtered during 2002-04 by category and by source is presented in table II-1.[7] While these data do not reflect all slaughtering of live swine during the period, they do include data from the questionnaire responses of the largest packers in the industry.

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[3] Telephone conversation with *** (March 16, 2005).

[4] Respondents have argued that measures of price flexibility should be focused on the effects of imports from Canada rather than on changes in the U.S. production of hogs (see hearing transcript, pp. 181-182 (Durling)).

[5] In the case of feeder pigs, a number of U.S. producers have developed long-term contractual arrangements, including joint ventures and direct investment, with Canadian isowean producers to assure themselves of consistent supplies of high quality isowean pigs. Postconference brief of the Canadian Live Swine Exporter Coalition (Wilkie Farr & Gallagher LLP, on behalf of Maple Leaf Foods et al.), exhibits 2 and 3, April 5, 2004.

[6] Some traditional feeder pigs are sold through auction markets. SEWs are generally not sold through auction markets because their disease-free status, which is dependent upon isolation from pigs from other herds, would be compromised.

[7] In their questionnaires, packers were asked whether their shares of purchases of live swine from Canada and the United States had increased or decreased in relative terms during the 2002-04, and if so, to state the reason for the shift. While responses varied, they generally did not reveal any shifts in preferences between Canada and the United States as sources of supply.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Supply

The sensitivity of the domestic supply of live swine to changes in price depends on such factors as the level of excess capacity, the availability of alternate markets for U.S.-produced live swine, inventory levels, and the ability to shift to the production of other products. The capacity to produce weanlings and feeder pigs, and thus market hogs, is directly related to the number of sows and gilts available to breed and farrow. However, capacity utilization with respect to live swine production is less meaningful and measurable than capacity utilization for manufactured products because hog producers do not maintain excess capacity in the form of unused sows and gilts. Gilts that are not retained for breeding stock and sows that will not be bred for current production or are no longer needed for breeding and are culled from the herd and slaughtered. Thus, the breeding herd can be viewed as being at or near

Table II-1
Live swine: Combined annual slaughter of swine, by type and by source, reported by 20 U.S. packers in purchaser questionnaires, 2002-04

(*Quantity* in number (head) of swine)			
Item	**2002**	**2003**	**2004**
BARROWS AND GILTS FOR SLAUGHTER RAISED TO APPROPRIATE MARKET WEIGHTS IN THE UNITED STATES:			
Quantity purchased from related parties	16,046,567	17,098,422	18,920,303
Quantity purchased from unrelated parties	59,692,404	50,213,851	60,504,614
BARROWS AND GILTS FOR SLAUGHTER RAISED TO APPROPRIATE MARKET WEIGHTS IN CANADA:			
Quantity purchased from related parties	—	—	—
Quantity purchased from unrelated parties	1,116,318	1,115,149	1,589,448
SOWS FOR SLAUGHTER FROM THE UNITED STATES:			
Quantity purchased from related parties	***	***	***
Quantity purchased from unrelated parties	***	***	***
SOWS FOR SLAUGHTER FROM CANADA:			
Quantity purchased from related parties	—	—	—
Quantity purchased from unrelated parties	***	***	***
BOARS FOR SLAUGHTER FROM THE UNITED STATES:			
Quantity purchased from related parties	—	—	—
Quantity purchased from unrelated parties	***	***	***
BOARS FOR SLAUGHTER FROM CANADA:			
Quantity purchased from related parties	—	—	—
Quantity purchased from unrelated parties	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

100 percent utilization at all times. The total U.S. producers' breeding stock in the United States amounted to about six million head on December 1, 2004, approximately the same level as existed on the same date in 2002 and 2003 (see table III-7).

Inventories of live swine are not directly comparable to inventories of manufactured products. Most live swine in inventory represent goods in process because they are not ready for immediate slaughter, but are in the process of growing to the desirable slaughter weight range of 240 to 280 pounds. The USDA reports market hog inventories based on four weight ranges: less than 60 lbs., 60 to 119 lbs., 120 to 179 lbs, and 180 or more lbs. During 2002-04, the December 1 combined inventory of market hogs and pigs ranged between 53.5 million and 54.5 million head (see table III-12). U.S. exports account for only a very small percentage of total U.S. shipments of live swine. During 2002-04 they consistently amounted to less than 0.1 percent of these shipments. Therefore, the U.S. live swine industry could not easily divert shipments to or from other markets in response to changes in price. When asked whether any other products are produced in the facilities used to produce live swine, 54 of 64 producers answered no or did not respond to the question. Of the six that answered yes, other products included cattle, turkey, and crop and manure production.

The overall evidence indicates that the industry has limited flexibility in expanding output and U.S. shipments in response to an increase in price. The available information suggests that in the short run, the U.S. industry can only respond to changes in demand with small changes in shipments of live swine to the U.S. market. Capacity utilization rates tend to be high, and biological constraints inherent in live swine production limit the ability of live swine producers to substantially increase output in the short term. In addition, a lack of export markets and evidence of an inability in the short run for producers to shift their facilities from the production of live swine to the production of other products further limit the responsiveness of supply.

Subject Imports

The supply response of Canadian producers to changes in price in the U.S. market is likely to depend upon such factors as capacity in Canada (measured in the number of breeding stock), the inventories of live swine, the existence of home markets, and the availability of other export markets besides the United States. Canada's total number of breeding stock increased from 1.51 million head in 2002 to 1.65 million head in 2005. End-of-period inventories of live swine were between 14.6 million and 14.7 million head in 2002-04. The U.S. market accounted for 12.8 percent of Canada's annual total shipments during 2002, 15.8 percent during 2003, and 17.0 percent during 2004. Canadian producers' exports to other markets accounted for an insignificant share of their total shipments of live swine during 2002-04. Home market shipments of Canadian producers accounted for 80.5 percent of their shipments in 2002, 76.4 percent in 2003, and 74.3 percent in 2004. These data suggest that Canada's producers may have some flexibility in expanding live swine exports to the United States, particularly by diverting some shipments from Canada to the United States. However, the biological constraints inherent in live swine production discussed above may limit the ability of Canadian producers to substantially increase exports in the short term.

U.S. Demand

Demand Characteristics

The demand for live swine is a derived demand that is primarily determined by the demand for pork. Responses to questions in the U.S. producer, broker/distributor/importer, and packer questionnaires indicate that the demand for pork has increased during 2002-04 due to a number of factors

including bovine spongiform encephalopathy ("BSE"), avian influenza ("AI"), and the popularity of high protein/low carbohydrate diets discussed below. When packers were asked whether demand for their processed swine product (consisting mainly of pork) had increased, decreased, or remained the same during 2002-04, 10 of the 18 responding packers reported that demand had increased, 7 reported that it was unchanged, and 1 reported that it had decreased.[8]

U.S. producers and brokers/distributors/importers were asked whether the demand for live swine had increased, decreased, or remained unchanged during 2002-04. Of the 56 producers that responded to the question, 51 reported that demand had increased, 4 reported that it was unchanged, and one reported that it decreased. Similarly, 17 of 19 brokers/distributors/importers that responded to the question stated that demand had increased, while 2 reported that it was unchanged.

The impact of factors such as BSE or AI mentioned above have reportedly had an effect upon the demand for live swine imports from Canada and the demand for U.S. pork in the United States and in export markets.[9] The discovery of BSE in Alberta, Canada on May 20, 2003, has been very important. The resulting closure of the U.S. border to Canadian cattle resulted in an increase in demand for pork products in the United States. Additionally, excess beef on the Canadian domestic market produced a glut which drove beef prices down in Canada. A corresponding decline in pork consumption of 10 percent resulting from the low beef prices decreased the slaughter rate of live swine in Canada, causing producers to turn to the United States for a market outlet. The border closure on cattle also created more sufficient transportation capacity for hogs to be exported since cattle were no longer being shipped. Seven months after the discovery of BSE in Canada it was also detected in Washington State (December 23), further increasing the demand for pork in the United States. Imports of live swine from Canada were 50 percent higher in the first nine months of 2004 compared with the same period of 2002 when the border was still open to cattle.[10]

Before the one and only identification of BSE in the United States in December 2003, the United States provided 18 percent of the world's beef; since then the number has declined to just 3 percent. The direct cost to the industry is estimated at $3.9 billion.[11] As of March 3, 2005, there were 58 countries with bans on at least some form of U.S. beef or cattle because of the BSE detection in December 2003. Bans are country-specific and range from all cattle and beef products to just semen and/or ruminants.

Reportedly, U.S. beef exports will be limited again in 2005 due to bans currently in place by major importing countries. Forecasts project exports in 2005 exceeding 2004 numbers by 35 percent but remaining far below historical levels. In the wake of the bans, Australia has emerged as the primary

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[8] Among packers that completed questionnaires, exports of pork increased by over 30 percent during the 2002-04 period.

[9] Twenty-two of the responding Canadian firms recognized several major events in the U.S. and Canadian meat markets between 2002 and 2004 as having a significant effect on the price of live swine. All credited BSE with having a demand-increasing influence on their operations, especially in the U.S. market, as the border closure to Canadian cattle spurred a glut in their domestic beef market, causing prices to drop. The outbreak of AI in Asia reportedly created additional demand for pork in Asia, and exports increased to compensate for that crisis. Firms also cited the increasing popularity of high-protein diets in sustaining demand, as well as mentioning the opening of the Mexican border to ham products.

[10] Hurt, Chris, "2005: Another Great Hog Year," Grain Price Outlook, January 2005.

[11] Cornish, Luke, "Japan may accept US beef soon," The Fort Morgan Times.com, http://www.fortmorgantimes.com/Stories/0,1413,164~8305~2755863,00.html, retrieved March 11, 2005.

competitor to the United States for providing high quality beef and is continually improving its position with its proximity to Japan and Korea.[12]

Events in Asia have also had an important effect on pork demand. Outbreaks of AI caused markets overseas and in the United States to search for alternative sources of protein. With beef already in low demand, pork was a good obvious substitute, boosting exports to East Asia, especially to Japan and Taiwan.

Pandemics of influenza are fairly common and have occurred four times in the last 125 years (1889-91, 1918-19, 1957-58 and 1968-69). The virus is extremely prevalent in all types of fowl species and there are numerous strains with different levels of virulence. However, the current rapid spread of the highly pathogenic "H5N12" strain of AI among several countries at one time is unprecedented. Since December 2003, a growing number of Asian countries have reported AI outbreaks in chickens and ducks. So far more than 100 million birds have been culled in 9 countries in Asia including Cambodia, China, Indonesia, Japan, Laos, Malaysia, South Korea, Thailand, and Vietnam. This strain has a mortality rate reaching 100 percent and is characterized by a sudden onset of severe illness coupled with rapid death.

Control measures for the virus include quarantining infected farms and destruction of infected or potentially infected flocks. The highly contagious strain can be spread from farm to farm through mechanical means such as contaminated equipment, feed, and cages. Japan and Korea now appear to have their AI outbreaks under control, especially after Japan detected its first human instance in December 2004. This involved the culling and rapid destruction of poultry flocks. However, governments in some countries do not have the resources to introduce recommended protective measures for cullers or the means to carry out rapid flock destructions. Moreover, in poor, isolated, rural areas livestock may not be registered with agricultural authorities, further complicating detection and prevention.

Epidemics of AI can last for years, reeking havoc in terms of the loss of human life and economic value. The H5N2 outbreak in Mexico began in 1992 and was not brought under control until 1995. The United States experienced its own outbreak in 1983-84, mainly contained in Pennsylvania, which resulted in the destruction of over 17 million birds and cost the poultry industry about $65 million along with an increase in retail egg prices of some 30 percent.[13]

In early 2004, there were detections of low pathogenic AI in the eastern United States and a detection of highly pathogenic AI in Texas. There have been no further detections of either disease in the United States. Currently, Malaysia is the only country on which the United States has an embargo due to AI.[14] Industry experts report that based on average historical patterns, another influenza pandemic is inevitable and possibly imminent, having an occurrence rate of three to four times each century.

In addition to BSE and AI, other factors have also affected the demand for pork products. One factor is lower growth in the U.S. poultry industry. From October 2003 to October 2004, the number of chickens slaughtered declined by 7 percent, the number of turkeys slaughtered declined by 14 percent,

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[12] World Beef Trade Overview, http://www.fas.usda.gov/dlp/circular/2004/04-10LP/beefoverview.html, retrieved March 11, 2005.

[13] This discussion compiled from World Health Organization, http://www.who.int, retrieved March 10, 2005, unless noted.

[14] "Recent Avian Influenza Outbreaks in Asia" Center for Disease Control, http://www.cdc.gov/flu/avian/outbreaks/asia.htm, retrieved March 10, 2005.

and the number of ducks slaughtered declined by 7 percent.[15] Another factor was Mexico's change in its rules on meat labeling in accordance with the North American Free Trade Agreement. The Mexican policy shift produced an increased demand for U.S. pork products in Mexico.[16] Still another factor that may be affecting pork demand is the overall change in preferences of the American consumer. There is anecdotal evidence suggesting that the popularity of high-protein diets has stimulated a rise in demand. Pork products are an essential component of these diets and U.S. consumers appear willing to pay higher prices in pursuit of their weight control/loss goals.[17] It is unclear, however, as to how much or for how long this demand stimulus will have an effect as the diets are receiving considerably less attention now compared to the beginning of 2004.

U. S. pork exports have increased annually for many years, as shown in appendix F. A breakout of major markets for the exports is also shown in this appendix.

Substitute Products

There are no substitutes for live swine in the production of pork. Substitutes for pork include other meat and protein sources, primarily beef and chicken. When packers were asked to list substitutes for pork, 15 of 20 firms responded. All 15 of the firms listed beef and chicken or poultry in general as substitutes. Turkey was also mentioned, along with fish and seafood.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported live swine depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, etc.). This discussion of substitutability issues is based upon the results of questionnaire responses from producers and brokers/distributors/importers that purchase swine, and packers. Available data indicate that there is a relatively high level of substitutability between U.S.-produced live swine and imported live swine from Canada.

A total of 20 packers including the largest firms in the industry, ***, submitted questionnaires. Among these firms, 14 used both U.S.-produced and Canadian-produced hogs during 2004, while 6 relied exclusively on U.S.-produced hogs. While 9 of the firms function strictly as packers, 11 are also engaged in one or more of several other operations including farrowing, nursery operations, birth-to-feeder operations, growing/finishing operations, and farrow-to- finish operations.

Factors Affecting Purchasing Decisions

When packers were asked to rank the three most important factors involved in purchasing decisions, availability, quality, and price were all commonly ranked among the top three factors.

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[15] This discussion was from Poultry Slaughter, National Agricultural Statistics Service ("NASS"), USDA, December 6, 2004.

[16] USDA Foreign Agricultural Service GAIN REPORT, "Canada Livestock and Products Semi-Annual 2005," Report Number CA 5004, January 31, 2005.

[17] USDA, "Livestock, Dairy and Poultry Outlook – March 2004."

Of the 20 packers that responded, 11 ranked availability among the top three, 13 ranked quality among the top three, and 11 ranked price among the top three factors (table II-2).[18]

Table II-2
Live swine: Ranking of factors used in purchasing decisions, as reported by U.S. packers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	3	4	4
Price	1	5	5
Quality	8	3	2
Other[1]	8	8	9

[1] Other factors include contracts, traditional supplier, timing of delivery, location of plant, and reliability of supply.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition to these comparisons, producers, brokers/importers/distributors, and packers were also asked to rank the factors listed in tables II-3 through II-5 in terms of importance in purchasing decisions. Each purchaser was asked to indicate whether a factor was very important, somewhat important, or not important. The results indicate that the most important factors for responding producers are freedom from disease, availability, product consistency, and quality meeting industry standards (table II-3). For the brokers/distributors/importers that responded to the question, availability, product consistency, reliability of supply, freedom from disease, and quality meeting industry standards were most important (table II-4). For packers, the leading considerations were availability, reliability of supply, product consistency, and quality meeting industry standards (table II-5).

[18] In some cases the characteristics were grouped. For example, one packer ranked the cost and quality of the live swine as a single factor.

Table II-3
Live swine: Importance of purchasing factors, as reported by U.S. producers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	29	5	0
Delivery terms	13	19	2
Delivery time	10	22	2
Discounts offered	5	19	9
Disease free	30	3	0
Extension of credit	3	5	25
Price	22	12	0
Minimum quantity requirements	14	13	7
Product consistency	28	6	0
Quality meets industry standards	26	7	1
Quality exceeds industry standards	18	16	0
Product range	7	17	7
Reliability of supply	24	7	2
Technical support/service	8	13	13
U.S. transportation costs	4	22	8

Note--Not all purchasers responded for each factor.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparisons of Domestic Products and Imports from Canada[19]

To determine whether domestic live swine can be used in the same applications as imports from Canada, U.S. producers, brokers/distributors/importers, and packers were asked whether the product can "always," "frequently," "sometimes," or "never" be used interchangeably in the same applications. A majority of the firms responding to the question reported that the products can always or frequently be

[19] Virtually all U.S. imports of live swine come from Canada. There are essentially no imports of live swine from other sources.

Table II-4
Live swine: Importance of purchasing factors, as reported by U.S. brokers/distributors/importers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	15	1	2
Delivery terms	8	5	4
Delivery time	4	10	3
Discounts offered	0	6	11
Disease free	13	3	1
Extension of credit	2	2	13
Price	5	10	2
Minimum quantity requirements	6	7	4
Product consistency	14	2	1
Quality meets industry standards	12	3	2
Quality exceeds industry standards	10	5	2
Product range	1	7	9
Reliability of supply	14	2	1
Technical support/service	3	4	10
U.S. transportation costs	3	11	3

Note--Not all purchasers responded for each factor.

Source: Compiled from data submitted in response to Commission questionnaires.

used interchangeably (table II-6). In addition to assessing the degree of interchangeability, some firms also provided additional comments concerning interchangeability. One U.S. producer said that certain vaccination procedures used in the United States are not allowed in Canada. In its view, the relative health of the domestic and Canadian products determines the extent of their interchangeability. Another producer stated that it sells to a packer that only buys swine of U.S. origin. One broker/distributor/importer stated that Canadian sow production is more efficient. It also stated that the health status of live swine imported from Canada is better than that of U.S.-produced live swine. Four other broker/distributors/importers also stated that the health status of Canadian pigs is superior. None of

Table II-5
Live swine: Importance of purchasing factors, as reported by U.S. packers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	19	0	0
Delivery terms	10	8	1
Delivery time	10	7	1
Discounts offered	0	8	10
Extension of credit	1	2	15
Price	12	5	2
Minimum quantity requirements	6	6	6
Product consistency	15	4	0
Quality meets industry standards	15	4	0
Quality exceeds industry standards	12	7	0
Product range	4	10	4
Reliability of supply	18	1	0
Technical support/service	1	7	9
U.S. transportation costs	6	9	3

Note--Not all purchasers responded for each factor.

Source: Compiled from data submitted in response to Commission questionnaires.

the 14 broker/distributor/importers that compared the U.S. product and imports commented on the relative health of the products with respect to interchangeability. One packer said that U.S. government programs on meat favor U.S.-produced hogs. Another packer said that USDA purchases of meat must be sourced from hogs raised in the United States.

In addition to questions concerning interchangeability, producers and importers also were asked to compare U.S.-produced products with imports from Canada in terms of product differences such as quality, availability, product range, and other factors that affect sales. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant. A majority of producers reported that the differences are never or sometimes significant, while a majority of brokers/distributors/importers said that the differences are always, or frequently, significant (table II-6). In addition to providing rankings, some firms also provided additional comments concerning product differences. Two producers said that because of location factors and long shipping distances to purchase imports from Canada, it is more practical to purchase U.S.-produced live swine. One producer based in Michigan purchases only from a U.S. producer close to home because he is very satisfied with its product. Another producer stated that it prefers the quality of live swine that it purchases in the United States. Five brokers/distributors/importers said that the quality and/or health status of Canadian live swine exceeds that of the U.S. industry. One packer said that because of geographical factors it has a shipping advantage in purchasing Canadian-produced hogs to keep freight costs lower on its non-contracted hogs. Another packer said that potential U.S./Canada border restrictions can affect purchases.

Table II-6
Live swine: Perceived degree of interchangeability of live swine produced in the United States and imported from Canada,[1] and the perceived importance of differences in factors other than price,[2] as reported by U.S. producers, brokers/distributors/importers, and packers

Country comparison	U.S. vs. Canada				
	A	F	S	N	0
Perceived degree of interchangeability:					
U.S. producers	22	20	2	0	20
U.S. brokers, distributors, and importers	10	5	3	0	2
U.S. packers	5	9	3	0	3
Perceived importance of differences in factors other than price:					
U.S. producers	7	2	10	2	43
U.S. brokers, distributors, and importers	12	3	0	4	1
U.S. packers	3	2	8	1	6

[1] Producers and importers were asked if live swine produced in the United States and in Canada are used interchangeably.
[2] Producers and importers were asked if the differences other than price between live swine produced in the United States and in Canada are a significant factor in their firms' purchases of live swine.

Note--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition to the comparisons relating to interchangeability and product differences, U.S. producers, brokers/importers/distributors, and packers were also asked to compare U.S.-produced live swine with imports from Canada in selected characteristics shown in tables II-7 through II-9. The characteristics shown in the tables are all the same except that disease-free was not a characteristic requested from or listed for packers. The results for both producers and packers show that a majority of firms consider the products comparable in virtually all categories. A majority of brokers/distributors/importers ranked Canadian live swine superior in availability and quality exceeding industry standards, while in all other categories, a majority ranked U.S. -produced and Canadian live swine comparable.

Table II-7
Live swine: Comparisons between U.S.-produced and subject products from Canada, as reported by U.S. producers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	2	17	6
Delivery terms	3	20	1
Delivery time	4	19	1
Discounts offered	2	18	3
Disease free	2	16	6
Extension of credit	4	19	0
Lower price[1]	2	15	4
Minimum quantity requirements	4	18	3
Product consistency	1	19	5
Quality meets industry standards	2	19	4
Quality exceeds industry standards	3	18	3
Product range	1	24	0
Reliability of supply	5	18	2
Technical support/service	4	17	1
Lower U.S. transportation costs	8	15	0

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that the U.S. product's price is generally lower than that of the Canadian product.

Note--Some packers did not rank all of the factors.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition to these comparisons, U.S. producers that purchase live swine from U.S. suppliers or import from Canadian sources were asked to rank their purchases in terms of health, delivery timeliness, availability of desired volume (lot size), consistency of supply, and growth performance on a scale of 1 (lowest) to 5 (highest).[20] Twenty-one U.S. producers ranked purchases of U.S.-produced live swine, and nine ranked imported live swine from Canada. The average rankings for Canadian and U.S.-produced live swine were similar. For health, delivery timeliness, growth performance, and availability of desired volume, Canada's live swine averages were 3.9, 4.0, 3.6, and 3.7, respectively, while ratings of U.S.-produced live swine for the same categories were 3.6, 4.0, 4.0, and 3.6, respectively.

Table II-8
Live swine: Comparisons between U.S.-produced and subject products from Canada, as reported by U.S. brokers/distributors/importers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	0	5	12
Delivery terms	0	15	1
Delivery time	1	13	2
Discounts offered	0	15	0
Disease free	0	8	8
Extension of credit	0	13	2
Lower price[1]	0	15	0
Minimum quantity requirements	0	10	6
Product consistency	0	9	8
Quality meets industry standards	0	11	5
Quality exceeds industry standards	1	6	9
Product range	0	13	3
Reliability of supply	1	9	7
Technical support/service	0	15	1
Lower U.S. transportation costs	5	10	2

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that the U.S. product's price is generally lower than that of the Canadian product.

Note--Some brokers/distributors/importers did not rank all of the factors.

Source: Compiled from data submitted in response to Commission questionnaires.

[20] U.S. brokers/distributors/importers were asked to provide the same ratings as U.S. producers, with consistency of supply also added as a characteristic. While most of these firms provided ratings for imports from Canada, the large majority was not able to provide ratings for U.S.-produced live swine.

U.S. producers and brokers/distributors/importers were also asked to rank the relative health of Canadian and U.S.-produced weanlings and feeder pigs. Questionnaire respondents were asked to indicate whether the health status of the Canadian pigs is significantly better than, slightly better than, about the same as, slightly lower than, or significantly lower than U.S. pigs. For the 33 producers that compared weanlings, 20 reported that the health status is about the same, 3 reported that the Canadian health status is significantly better, 6 reported that the Canadian health status is slightly better, 3 reported that the Canadian health status is slightly lower, and 1 reported that the Canadian health status is significantly lower. For the 38 producers that compared feeder pigs, 22 reported that the health status is about the same, 10 reported that the Canadian health status is slightly better, 4 reported that the Canadian health status is significantly better, and 2 reported that the Canadian health status is slightly lower. Among the 13 brokers/distributors/importers that compared weanlings, 10 reported that the Canadian products were significantly better, 2 reported that the Canadian products are slightly better, and one reported that the products are about the same. Among the 11 brokers/distributors/importers that compared feeder pigs, 9 reported that the Canadian products were significantly better, 1 reported that the Canadian products were slightly better, and one reported that the products are about the same.

Table II-9
Live swine: Comparisons between U.S.-produced and subject products from Canada, as reported by U.S. packers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	3	9	3
Delivery terms	1	12	2
Delivery time	2	12	1
Discounts offered	1	11	0
Extension of credit	0	10	0
Lower price[1]	0	11	1
Minimum quantity requirements	1	11	0
Product consistency	0	9	6
Quality meets industry standards	0	13	2
Quality exceeds industry standards	0	11	4
Product range	1	11	2
Reliability of supply	3	9	2
Technical support/service	0	13	0
Lower U.S. transportation costs	1	11	0

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that the U.S. product's price is generally lower than that of the Canadian product.

Note--Some packers did not rank all of the factors.

Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates for live swine. Parties were encouraged to comment on these estimates as an attachment to their prehearing briefs. However, none of the firms commented specifically on the staff estimates. A more commonly used economic measure in the live swine industry than the elasticities shown is the price flexibility (see earlier discussion in this section). The price flexibility number is actually the inverse of the elasticity of demand. Thus, if the price flexibility is three, this would be consistent with a demand elasticity of -0.33, and if the flexibility is four, the demand elasticity would be -0.25.[21]

The petitioners argued at the hearing that the price flexibility is between -3 and -4, while the respondents have argued that the price flexibility as usually measured is much lower.[22] The respondents have also argued that a better measure than a standard price flexibility for purposes of this investigation is an import price flexibility, which estimates the effect of imports on hog prices in the United States.[23]

U.S. Supply Elasticity[24]

The domestic supply elasticity for live swine measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price. The elasticity of domestic supply depends on several factors including the level of industry capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced live swine. Analysis of these factors discussed earlier indicates that the U.S. industry would find it difficult to greatly increase or decrease shipments to the U.S. market in the short run; therefore, an estimate in the range of 0.5 to 1 is suggested. None of the parties commented on this estimate.

U.S. Demand Elasticity

The U.S. demand elasticity for live swine measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of this product. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of this product in the production of pork. Based on the available information, the aggregate demand for live swine is likely to be inelastic; a range of -0.2 to -0.5 is suggested. None of the parties commented on this estimate. However, the price flexibilities discussed by the petitioners at the hearing would be consistent with this estimate.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[25] Product differentiation, in turn, depends upon such factors as quality

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[21] Telephone conversation with ***, March 16, 2005.

[22] Hearing transcript, p. 149 (Meyer).

[23] Hearing transcript, pp. 181-185 (Durling).

[24] A supply function is not defined in the case of a non-competitive market.

[25] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

(health of animals) and conditions of sale (availability, location, sales terms/delivery etc.). Based on available information, the elasticity of substitution between U.S.-produced live swine and imported Canadian live swine is likely to be in the range of 4 to 6. None of the parties commented on this estimate.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on USDA data.[1] Other information is based on the questionnaire responses of 68 firms that accounted for approximately 41.4 percent of U.S. production of live swine during 2004.[2]

U.S. PRODUCERS

The most prevalent form of raising live swine is a grower/finisher (finishing only) operation, whether measured by number of farms or head sold (table III-1). Other live swine producers include farrow-to-weanling, weanling-to-feeder (nurseries), farrow-to-feeder, and farrow-to-finish producers, as described in Part I of this report. A major trend in the U.S. live swine industry is toward fewer and larger hog operations. In 2004, there were 69,420 operations with swine in the United States, down 9.0 percent from 76,250 operations in 2002 and down 5.8 percent from 73,720 operations in 2003.[3]

Information on swine operations, by size, and their shares of swine inventories is presented in table III-2. The largest producer, Smithfield, accounted for approximately *** percent of U.S. production in 2004. The next four largest U.S. producers accounted for 15.5 percent of U.S. production in 2004: ***. Nearly all of the other U.S. producers each accounted for well under one percent of U.S. production.

Table III-1
Live swine: U.S. hogs and pigs sold, by type of farm, 2002

Type of farm	Number of farms	Number of head sold
Farrow-to-weanling	6,205	38,852,180
Nursery	2,658	29,907,553
Grower/finisher (finish only)	34,349	60,393,074
Farrow-to-feeder	7,755	18,965,222
Farrow-to-finish	28,749	45,959,882
Source: Census of Agriculture, USDA, NASS, table 26, 2002.		

[1] Petitioners "propose that the Commission use publicly available USDA data for production, inventory, pricing, and financial data. These data will result in the most complete and accurate industry analysis." (Petition, p. 50.)

[2] U.S. live swine production is derived from questionnaire respondents' early-weaned pig productions' share of the U.S. pig crop.

[3] Compiled from USDA, NASS, *Livestock Operations*, 2003 Summary, April 2004, and NASS, *Farms, Land in Farms, and Livestock Operations*, 2004 Summary, January 2005.

Table III-2
Live swine: U.S. swine operations, by size and by shares of swine inventories, 2002-04

Year	1-99 head	100-499 head	500-999 head	1,000-1,999 head	2,000-4,999 head	5,000 or more head
	Number of operations[1]					
2002	45,640	12,261	6,234	5,031	4,811	2,273
2003	44,490	11,530	5,687	4,877	4,871	2,265
2004	42,015	10,368	5,155	4,459	5,132	2,291
	Share of swine inventory (*percent*)					
2002	1.0	5.0	6.5	12.0	22.5	53.0
2003	1.0	4.5	6.5	11.0	24.0	53.0
2004	1.0	4.0	6.0	10.0	26.0	53.0

[1] An operation is any place having one or more hogs or pigs on hand at any time during the year.

Source: Compiled from USDA, NASS, *Livestock Operations*, 2003 Summary, April 2004, and NASS, *Farms, Land in Farms, and Livestock Operations*, 2004 Summary, January 2005.

Swine are grown throughout the United States, but production and inventories have historically been concentrated in the Corn Belt States to take advantage of low feed transportation costs. More recent expansion of live swine production has occurred in other regions, most notably North Carolina, largely due to the development and widespread use of contract production arrangements by a few large integrated producers.[4]

The Commission sent its producers' questionnaire to 184 producers of live swine, and its association questionnaire to 44 state pork associations. A list of U.S. producers who responded to the questionnaire is presented in table III-3, along with each company's position on the petition, its production phases, and production locations. These same U.S. producers' share of U.S. production based on their reported weanling and feeder pig production are presented in table III-4 and table III-5, respectively. Table III-6 presents which state associations responded to the Commission's questionnaire, their positions on the petition, and the positions of member farrowing/nursery operations, finishers, and packers.

In 2003, several U.S. producers of live swine identified by petitioners either reorganized or closed their operations: Alliance Farms, Bell Farms, Farmland Foods, Heartland Pork Enterprises, and Sand Livestock Systems.[5] However, also in 2003, approximately 30 U.S. live swine producers announced that they would invest $130 million in a 600,000-square-foot packing plant and headquarters

[4] Canadian Live Swine Exporters' Coalition's postconference brief, exhibit 4, p. 2.

[5] Conference transcript, p. 16 (Caspers).

Table III-3
Live swine: Responding U.S. producers, their positions on the petition, production phases, and state locations of operations

Firm	Position on petition	Production phases	Locations of operations
Alan Christensen	Supports	Contract finisher	MI
Bailey Terra Nova Farms	Supports	Farrow-to-finish	MI
Belstra Milling Co.	Supports	Farrow-to-finish	(1)
Blue Wing Farm	Supports	Farrow-to-finish	MI
Borgic Farms, Inc.	Supports	Swine farrowing	IL
Bornhorst Bros.	Supports	Farrow-to-finish	OH
Brandt Bros.	Supports	Farrow-to-finish	SD
Bredehoeft Farms, Inc.	***	***	***
Cargill Pork	Supports	Farrow-to-finish	AR, OK, MO NC, KY, MN, IA
Cheney Farms	Supports	Farrow-to-finish	MI
Circle K Family Farms LLC	***	***	***
Cleland Farm	Supports	Swine farrowing	IL
Coharie Foods	Supports	Farrow-to-finish	NC
Country View Family Farms	***	***	***
County Line Swine Inc.	***	***	***
Daniel J. Pung	Supports	Farrowing	MI
David Ballard	Supports	Farrow-to-finish	MI
De Young Hog Farm LLC	Supports	Farrow-to-finish	MI
Double "M" Inc.	Supports	(1)	(1)
Forest River Colony	(1)	(1)	MO
GLM Farms	(1)	(1)	GA, MS, AL
Gold Kist Pork	***	Farrow-to-finish	GA, AL, MS
H & H Feed and Grain	***	***	***
Haag Farms	Supports	Farrow-to-finish	IL
Harrison Creek Farm	Supports	Farrow-to-finish	MO
Heritage Swine	Supports	Swine farrowing	WI
High Lean Pork, Inc.	Supports	Farrow-to-finish	MI
Hitch Pork Producers	***	***	***
Hormel Foods	***	***	***
Huron Pork, LLC	Supports	Swine farrowing	(1)
Indiana Packers Corp.	***	***	***
J.D. Howerton and Sons	Supports	Farrow-to-finish	MO, IA
Jim Kempen	Supports	Swine farrowing	WI
Kendale Farm	Supports	Swine farrowing	MI
Lean Team America	Opposes	Feeder/finisher	ND
Lehmann Bros. Farms LLC	Supports	Farrow-to-finish	IL

Table continued on next page.

Table III-3--*Continued*
Live swine: Responding U.S. producers, their positions on the petition, production phases, and state locations of operations

Firm	Position on petition	Production phases	Locations of operations
Leidy's Inc. (Eastern Pork Inc.)	***	***	***
Lewis Grain & Livestock	Supports	Farrow-to-finish	IA
Luckey Farm	Supports	Swine nursery, swine feeder/finisher	NE
Martin Gingerich	***	***	***
Maxwell Foods, Inc.	Supports	Farrow-to-finish	NC
McKenzie-Reed Farms	Supports	Farrow-to-finish	MI
Meier Family Farms Inc.	Supports	Farrow-to-finish	IA
MFA Inc.	Supports	Farrow-to-finish	MO
Mill Farm, Inc.	***	***	***
Millenia Farms, Inc.	***	***	***
Murphy Brown/Smithfield	Supports	([1])	([1])
Ned Black and Sons	Supports	Farrow-to-finish	OH
New/Oak Leaf Premium Pork	***	***	***
Oak Leaf Premium Pork, LLC	***	***	***
Orangeburg Foods	Supports	Farrow-to-finish	SC, GA, NC, KA
Pat Gannon	Opposes	Nursery-to-finish	IA
Pipestone Systems Companies	Supports	Farrow-to-finish	MN, IA, SD, NE, WI, OH
Premium Standard Farms, Inc.	***	***	***
Prestage Farms, Inc.	Supports	Farrow-to-finish	NC, MS
Propig	***	***	***
R Hogs LLC	Supports	Farrow-to-finish	SD
Ray Lindhorst	***	***	***
Rehmeier Farms	Supports	Farrow-to-finish	MO
Schmitt Farms	***	***	***
Seaboard Farms, Inc.	***	***	***
Steven A. Gay	Supports	Swine farrowing	WI
Sunnycrest Inc.	Supports	Swine nursery, swine-feeder/finisher	([1])
The Hanor Company	([1])	Farrow-to-finish	WI, IL, OK, NC, IA, KY, KS
The Pork Group, Inc.	***	***	***
TLS Farmer Network	([1])	([1])	MI
Two Mile Pork	***	***	***
Walters Farms LLP	Supports	Farrow-to-finish	GA
Wispig	Supports	Swine nursery, swine-feeder/finisher	WI, IL, IA
Wolf Farms	Supports	Farrow-to-finish	WI
Wooden Purebred Swine Farms	Supports	Seedstock	([1])
Zimmerman Hog Farms	Supports	Farrow-to-finish	NE

[1] No response.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-4
Live swine: Pigs weaned by responding U.S. producers as a ratio to the U.S. pig crop, 2002-04

* * * * * * *

Table III-5
Live swine: Feeder pigs produced by responding U.S. producers as a ratio to the U.S. pig crop, 2002-04

* * * * * * *

Table III-6
Live swine: Responding state associations, positions on the petition, and members' majority positions on the petition

* * * * * * *

located in St. Joseph, MO,[6] which will add about 8,000 head to daily U.S. slaughter capacity[7] and 16,000 head if a second shift is added in the autumn of 2006.[8]

Producers were requested to indicate whether they experienced a shift in the production stages in which they specialized. Most producers reported that they maintained the same operation throughout the period examined. For the few that did experience a shift, several ceased farrowing operations and opted to purchase weanlings, which they would then finish. The shifts were designed to reduce labor costs and increase specialization. A few producers, however, did the opposite: increasing specialization in producing weanlings and ceasing finishing operations.

Two U.S. producers, ***, reported being related to foreign firms, ***, that were engaged in the importation of live swine from Canada. *** owns *** percent of ***. ***. *** is the only U.S. producer reported being related to a Canadian firm *** engaged in the production or the packing/slaughter of live swine.

U.S. PRODUCERS' BREEDING STOCK AND PRODUCTION

As shown in table III-7, the U.S. breeding stock decreased and the pigs per litter increased slightly from 2002 to 2004. A decrease in breeding stock frequently indicates the intention to reduce future production. Production, however, has become more efficient as pigs per litter and the number of head produced increased from 2003 to 2004. U.S. production (pigs born) decreased by less than 0.2 percent from 2002 to 2003, then increased by 0.8 percent in 2004.

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[6] Canadian Live Swine Coalition's postconference brief, p. 49, citing "Bringing home the bacon; Hog-processing plant draws backers, critics in St. Joseph," Kansas City Star, March 9, 2004.

[7] "Checkoff-funded study examines packer capacity," *Pork Magazine*, November 8, 2004.

[8] Petitioners' posthearing brief, exh. 1, Answers to Questions by the Commission, p. 10.

Table III-7
Live swine: U.S. producers' breeding stock, sows farrowing, pigs per litter, and production, as of December 1, 2002-04

Item	2002	2003	2004
Breeding stock[1] (*1,000 head*)	6,058	6,009	5,969
Sows farrowing (*1,000 head*)	11,492	11,429	11,462
Pigs per litter	8.85	8.88	8.94
Production[2] (*1,000 head*)	101,678	101,490	102,457

[1] All swine retained for breeding purposes. Breeding stock in excess of need or incapable of breeding are slaughtered.
[2] Pig crop.

Note--Breeding stock is as of December 1 of the given year. All other data are based on a December to November calendar year.

Source: Compiled from USDA, NASS, Quarterly Hogs and Pigs, December 28, 2004 and March 24, 2005.

Fewer than half of U.S. producers reported that their stock of breeding animals, sows in particular, has changed since the beginning of 2002. Most reported changes consisted of increases in sow operations. This was done through minor expansions (e.g., to fill barns to capacity) and acquisitions. The largest expansion was one producer, ***, increasing its sow operation from *** to *** head. Few producers reported reducing sow operations. Reasons cited for any reductions ranged from accidents to selling off sows or closing sow operations to reduce costs.

One firm reported beginning production in 2002. New sow facilities were added, one of which was a 25,000-head facility that was begun in 1997 and completed in 2003. Disease also caused change. For some producers, an actinobacillus pleuropneumonia ("APP")-positive sow herd led to depopulation and then repopulation and another APP outbreak forced a producer to shift from farrow-to-finish operations to just finishing.

The few live swine producers that produced other products on the same acreage and used the same equipment and facilities produced, in order of prevalence reported: corn, soybeans, cattle, turkey, and crops.

There are several regulatory constraints that affect the live swine industry. Regulatory constraints that limit live swine production capabilities were cited by 47 of 68 producer respondents. The most frequently cited reasons were zoning permit issues and environmental regulations and permits (e.g., manure application restrictions on crops).[9] Other reported problems include urban encroachment and proximity to non-farming neighbors. In spite of these constraints, the actual denial of necessary permits has not been a hindrance to development, according to questionnaire responses. Only three producers cited permit denial as a reason for limiting development. Very few producers reported actually closing facilities because of the denial of permits. Two cited the inability to have necessary buildings constructed because of permits and environmental regulations.

About three-quarters of reporting U.S. producers reported that they did not have any difficulties obtaining a suitable labor supply. Several producers indicated that low profitability makes finding qualified labor difficult. The talent pool for recruiting workers in live swine production is generally limited to undocumented and unskilled workers.

[9] North Carolina has a moratorium on new hog facilities.

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

Data on U.S. producers' shipments of live swine are presented in table III-8. U.S. producers' U.S. shipments based on the head count of swine increased by 0.3 percent from 2002 to 2004. U.S. producers' U.S. shipments based on weight increased by 2.6 percent between 2002 and 2004. The value of U.S. producers' U.S. shipments increased greatly, by 58.6 percent, between 2002 and 2004, principally because of rising unit values. The unit value of U.S. producers' U.S. shipments increased by 58.1 percent from 2002 to 2004. Export shipments were very small although they increased in each year.

Table III-8
Live swine: U.S. producers' shipments, by type, 2002-04

Item	Calendar year		
	2002	2003	2004
	Quantity (*1,000 head*)		
U.S. shipments[1]	94,651	93,613	95,074
Export shipments	88	123	133
Total shipments	94,740	93,736	95,208
	Quantity (*1,000 pounds*)		
U.S. shipments[2]	25,852,792	26,002,408	26,563,028
Export shipments[3]	23,427	32,689	35,585
Total shipments	25,876,219	26,035,097	26,598,613
	Value (*1,000 dollars*)		
U.S. shipments[4]	8,564,943	9,730,663	13,594,769
Export shipments	12,342	22,777	23,505
Total shipments	8,577,284	9,753,439	13,618,274
	Unit value (*per head*)		
U.S. shipments	$90.49	$103.95	$142.99
Export shipments	139.57	185.53	176.13
Total shipments	90.54	104.05	143.04
	Unit value (*per pound*)		
U.S. shipments	$0.33	$0.37	$0.51
Export shipments	0.53	0.70	0.66
Total shipments	0.33	0.37	0.51

[1] Commercial slaughter plus farm slaughter minus total imports.
[2] Commercial slaughter weight minus the weight of total imports.
[3] Estimated by multiplying the number of swine exported by the annual average slaughter weight.
[4] The value of U.S. shipments is calculated as the total live weight of U.S. commercial slaughter, minus the total weight of imports, times the price received (dollars per cwt).

Source: USDA, NASS, Livestock Slaughter Annual Summary: March 2002/March 2003/March 2004/March 2005 and official Commerce statistics. Value is based on USDA, NASS, Agricultural Statistics Board, Agricultural Prices, January 2005, p. 16.

U.S. PRODUCERS' PURCHASES OF IMPORTS

Table III-9 presents individual U.S. producers' purchases of imports and production of weanlings. Table III-10 presents individual U.S. producers' purchases of imports and production of feeder pigs.

Table III-9
Live swine: U.S. producers' production and purchases (including direct imports) of Canadian weanlings, 2002-04

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Table III-10
Live swine: U.S. producers' production and purchases (including direct imports) of Canadian feeder pigs, 2002-04

* * * * * * *

U.S. PRODUCERS' INVENTORIES AND EMPLOYMENT

Data on end-of-period inventories of live swine for the period examined are presented in table III-11. Inventories of live swine, by weight group, are presented in table III-12. There are no known official data sources that specifically report on employment and wages in swine operations; employment-related data compiled in response to Commission questionnaires are presented in appendix D.

Table III-11
Live swine: U.S. producers' end-of-period inventories, and ratios of U.S. producers' inventories to production, U.S. shipments, and total shipments, as of December 1, 2002-04

Item	2002	2003	2004
Inventories[1] (*1,000 head*)	59,554	60,444	60,645
Ratio to production (*percent*)	58.6	59.6	59.2
Ratio to U.S. shipments (*percent*)	62.9	64.6	63.8
Ratio to total shipments (*percent*)	62.9	64.5	63.7

[1] Inventories are of all hogs and pigs, including those kept for breeding.

Source: USDA, NASS, Quarterly Hogs and Pigs, December 28, 2004, p. 5 and March 24, 2005, p. 10; and USDA, NASS, Livestock Slaughter, January 21, 2005.

Table III-12
Live swine: U.S. producers' end-of-period inventories of market hogs and pigs,[1] by weight group, as of December 1, 2002-04

Item	2002	2003	2004
	Quantity (*1,000 head*)		
Under 60 lbs.	19,485	19,778	19,650
60-119 lbs.	13,033	13,238	13,439
120-179 lbs.	10,875	11,109	11,186
180 lbs. and over	10,103	10,311	10,401
Total	53,496	54,434	54,675

[1] Does not include breeding stock.

Note--Because of rounding, figures may not add to the total shown.

Source: Compiled from USDA statistics (USDA, NASS, Quarterly Hogs & Pigs December 28, 2004, p. 6 and March 24, 2005).

PRRS AND OTHER SWINE DISEASES

Porcine reproductive and respiratory syndrome ("PRRS") has affected the U.S. live swine industry and has caused financial losses to many U.S. swine producers, from breeding/farrowing producers to growing/finishing producers. The disease causes reproductive failure in females and respiratory tract illness in pigs of all ages and sex.[10] A recent study estimated that PRRS cost the U.S. swine industry $600 million annually.[11]

The Commission's questionnaire asked producers "What has been the health status of your swine operations in regards to PRSS?" Table III-13 presents the number of responding firms that fell into the following health categories with regard to PRRS at all stages of production for the years 2002-04. Those producers responding to the questionnaires identified operations that were PRRS-positive with outbreaks as having the highest costs associated with the disease. Reported costs due to the outbreaks ranged from $5 to $10 per sow, $3 to $5 per animal at the nursery stage, and $2.50 per animal at the finishing stage, leading to an average of $10.50 to $17.50 per slaughter hog. One firm credited PRRS with causing an additional cost of $50 per sow.

Table III-13
Live swine: Responding U.S. firms' PRRS status, 2002-04

	2002	2003	2004
PRRS-negative herd	28	29	29
PRRS-positive herd, no outbreaks	22	19	25
PRRS-positive herd, with outbreak	18	19	19

Source: Compiled from data submitted in response to Commission questionnaires.

[10] USDA, Agricultural Research Service, Porcine Reproductive and Respiratory Syndrome Vaccine, found at http://www.ars.usda.gov/research/patents/patents.htm?serialnum=08674475, retrieved January 27, 2005.

[11] Feedstuffs, *PRRS may cost industry between $560 million and $760 million*, by Tim Lundeen, November 22, 2004, Issue 48, Vol. 76.

Operations of PRRS-positive herds with no outbreaks had costs associated with the disease. The effects varied from claiming that PRRS costs are small at about $3,000 per year, to an increased death rate of three to four percent and another producer claiming vaccination costs of $50,000 a year. One indirect cost associated with PRRS includes sows producing fewer pigs per litter; this in turn can directly affect production efficiency.

To reduce the incidence and impact of PRRS, 32 firms implemented changes to their operations. Methods to mitigate the disease included introducing biosecurity guidelines, revising sanitation guidelines (including installing shower stalls for shower-in/shower-out for workers and visitors), reducing traffic between farms, segregating the herd and workers dedicated to specific production stages, increasing the use of vaccinations, frequent blood tests, washing feed and service trucks, and antibiotic therapy. Reported costs implementing the above changes ranged from $20,000 to $2 million.

Most firms that had PRRS outbreaks did experience depopulation/repopulation.[12] For the few that did, most herd replacement was from internal sources. Only two reporting firms repopulated with Canadian livestock.

Forty-seven U.S. producers reported that PRRS had little to no effect on the level of U.S. imports of live swine from Canada or had no opinion or knowledge of the effect. Some producers claimed that PRRS led to selling off labor-intensive practices like farrowing and nursery, thereby freeing U.S. producers to specialize in finishing pigs. Some reported that the reduction in the U.S. supply due to PRRS created a market for Canadian suppliers to fill, that Canadian pigs were used to fill the demand that U.S. suppliers could not meet. Some Canadian firms also had PRRS-positive livestock, meaning that they acted as additional suppliers of live swine and were not necessarily supplying healthier pigs.

Producers were evenly split between believing and not believing that PRRS had an adverse effect on the condition of the U.S. live swine industry. Some producers reported that Canadian pigs offset the impact of PRRS, in that Canadian suppliers gave U.S. finishers access to a source of weanlings and feeder pigs, keeping U.S. finishing facilities full and operating more efficiently. However, some U.S. producers reported that without the Canadian pigs U.S. producers would have received higher prices for their pigs. Some of these same producers agree that Canadian pigs offset the impact of PRRS, but at the expense of U.S. producers.

Most producers reported that there were no other disease outbreaks besides PRRS that affected their operations. For the few producers that did cite diseases that affected production, the two most common were APP and mycoplasma. APP reportedly led to closings and sudden death of swine, each increasing production costs. Treating mycoplasma involves veterinary care and vaccinations. Only one U.S. producer used Canadian livestock to offset the impact of these diseases. Five producers depopulated and then repopulated, but none reported sourcing Canadian pigs.

An overwhelming number of U.S. producers believed that outbreaks of diseases besides PRRS had no impact on the levels of live swine imports from Canada during 2002-04. However, many of these same producers believed that there was an adverse impact on the U.S. industry from these diseases. The producers believing that diseases adversely affected the U.S. industry believed that the availability of Canadian weanlings and feeder pigs helped to keep facilities full. However, imported pigs also carry the risk of potentially carrying disease such as a different strain of PRRS.

Responding both to the impact of PRRS and the impact of other diseases, some U.S. producers reported that without the Canadian pigs they would have received higher prices. The argument parallels the belief that Canadian pigs exacerbated the hog cycle. By this line of reasoning, depletions of supply (caused in part by disease) bolster U.S. producers' prices, but the imported Canadian pigs erase the inevitable price hikes; Canadian pigs filling the demand gap allegedly reduce the profitability of U.S.

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[12] Depopulation is a means used by pork producers to try and control the transmission of PRRS. In general, the pigs are destroyed or slaughtered and the facilities are cleaned and disinfected. Repopulation is the rebuilding of the herd once the disease has been eliminated.

firms, making it difficult for them to make the improvements needed to make themselves successful again. In a study in which nearly 1,200 hog producers were surveyed, more responding firms in each size category selected "oversupply of hogs" as the greatest challenge to the U.S. industry over the next five years.[13]

U.S. PRODUCERS' OPINIONS ON THE IMPACT OF IMPORTS ON THE DOMESTIC INDUSTRY

U.S. producers were requested to respond to the questions "What is the impact of imports of early weaned and feeder pigs from Canada on the condition of the domestic industry?" and "What would be the effect on your firm if live swine from Canada were not available in the United States?" Responses received are summarized below, but are incomplete and do not necessarily represent the views of the industry as a whole.

On one hand, producers indicated that without the imports, fewer hogs would have been available for packers, which in turn would not have been able to operate at capacity, potentially leading to closures. It was also reported that Midwest finishers, and in particular independent producers, would have faced problems with underutilized feeding capacity; independent producers would have been squeezed by the dearth of pigs. Imports of Canadian pigs reportedly helped independent U.S. producers to maintain competitiveness with vertically integrated producers. Moreover, U.S. producers that were unable to maintain farrowing and nursery facilities because of diseases reportedly were able to stay in business; they restructured by shedding the more expensive functions and switching to specializing in finishing pigs. It was also reported that the imports from Canada helped to meet the demand that U.S. farrowers could not meet.

Other U.S. producers reported that imported pigs from Canada directly lead to less demand for U.S. pigs, and caused U.S. producers to reduce the number of sows, which leads to a loss of equity. It was also contended that the influx of Canadian pigs exacerbated the hog cycle by increasing supply in what is normally a contraction phase, and that without the increased supply, what was considered a good 2004 could have been a banner year for U.S. producers.

U.S. producers reported that if live swine imported from Canada were not available in the United States, prices would increase. In turn, U.S. producers would be more profitable, allowing for expansion (e.g., expanding the sow herd) and in some cases taking market share from Canadian producers. Some U.S. producers contended that they would have been able to sell pigs at a fair price. Morever, exposure to diseases and different strains of disease that exist in swine in Canada would be limited.

About a quarter of responding producers believe that there would be no impact if Canadian live swine were not available in the United States. Very few responding producers reported that they would experience negative effects if live swine from Canada were not available. *** reported that it would increase the purchase price of pigs thereby increasing the total costs of "raising an animal to market weight." *** believes that without Canadian pigs there would be excess finishing space that would "lead to lower contract finishing rates."

U.S. producers were requested to identify major events in the U.S. and Canadian meat markets that affected individual firms' prices of live swine. The most commonly reported events were bovine spongiform encephalopathy ("BSE") found in Canada in 2003, avian influenza ("AI") in Asia in late 2003 and early 2004, Russian restrictions on imports of U.S. chicken in 2002, and the rise in popularity of low-carbohydrate ("low-carb") diets.

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[13] Christian Boessen, John D. Lawrence, and Glenn Grimes, "Production and Marketing Characteristics of U.S. Pork Producers - 2003, Agricultural Economics Working Paper 2004-4," table 36.

BSE's impact was reportedly multifaceted. Because of the BSE found in Canada, the United States banned imports of Canadian beef and cattle. This reportedly led to an increased supply of meat protein in Canada, driving the price down; since pork was no longer competitive in Canada, exports to the United States increased, which may have depressed U.S. pork prices. However, the lack of Canadian beef in the U.S. market reportedly left a meat protein hole that consumers needed to fill, in which case they chose pork. U.S. consumers also became cautious about beef in general, thereby increasing demand for pork.

The ban by Russia on U.S. chicken imports reportedly had a similar effect as the United States' ban on beef from Canada. The United States had a glut of chicken protein, driving meat protein prices down. A counterweight to this was that Russia increased demand for pork to substitute for the banned chicken.

AI decimated the poultry stock throughout Asia in late 2003 and early 2004. The lack of domestic meat protein reportedly increased demand for imports in Asia, which drove demand for U.S. meat protein exports including pork. Domestic demand reportedly increased because of the rise of high protein, low carbohydrate diets; one producer noted that this likely peaked in 2004.

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent importer questionnaires to 43 brokers/distributors/importers, as well as to all U.S. producers that were sent producers' questionnaires; 40 questionnaire responses, 18 with data, were received.[1] The three largest importers of live swine from Canada are ***, which accounted for approximately *** percent (based on head count) of U.S. imports of live swine from Canada in 2004.

U.S. IMPORTS

U.S. imports of live swine are presented in table IV-1, based on official Commerce statistics.[2] Canada is by far the largest exporter of live swine to the United States, accounting for virtually 100 percent of total U.S. imports in 2004. The volume of subject imports of live swine from Canada increased by *** percent from 2002 to 2004. The majority of imports of live swine consists of weanlings or feeder pigs that are then fattened to slaughter weight; the remainder of the imports consists of slaughter hogs. A breakout of monthly imports of live swine from Canada in 2004 by HTS statistical reporting number is presented in appendix E (table E-1). Annual imports from Canada by HTS number are presented in table IV-2.

Table IV-1
Live swine: U.S. imports, by sources, and ratios of imports to U.S. production, 2002-04

Source	Calendar year		
	2002	2003	2004
	Quantity (*head*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	5,725,646	7,429,217	8,498,388
Other sources	602	191	546
Total	5,726,248	7,429,408	8,498,934
	Quantity (*1,000 pounds*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	708,507	873,331	1,025,054
Other sources	147	5	236
Total	708,654	873,337	1,025,290

Table continued on next page.

[1] The Commission sent questionnaires to those firms identified in the petition and firms in proprietary data of the U.S. Customs and Border Protection ("Customs") as possible importers.

[2] Imports of live swine are from official Commerce statistics under HTS statistical reporting numbers 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, and 0103.92.0090. Prior to June 2003, HTS statistical reporting numbers 0103.91.0010, 0103.91.0020, and 0103.91.0030 were included under one subheading (HTS 0103.91.00).

Table IV-1--*Continued*
Live swine: U.S. imports, by sources, and ratios of imports to U.S. production, 2002-04

Source	Calendar year		
	2002	2003	2004
	Value (*1,000 dollars*)[1]		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	307,501	398,491	539,412
Other sources	204	54	509
Total	307,706	398,545	539,921
	Unit value (*per animal*)[1]		
Canada (subject)	$***	$***	$***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	53.71	53.64	63.47
Other sources	339.66	282.67	932.98
Average	53.74	53.64	63.53
	Unit value (*per pound*)[1]		
Canada (subject)	$***	$***	$***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	0.43	0.46	0.53
Other sources	1.39	9.99	2.16
Average	0.43	0.46	0.53
	Average weight (*pounds per animal*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	124	118	121
Other sources	244	28	433
Average	124	118	121
	Share of quantity by number of animals (*percent*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	100.0	100.0	100.0
Other sources	(2)	(2)	(2)
Total	100.0	100.0	100.0

Table continued on next page.

Table IV-1--*Continued*
Live swine: U.S. imports, by sources, and ratios of imports to U.S. production, 2002-04

Source	Calendar year		
	2002	2003	2004
	Share of quantity by weight (*percent*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	100.0	100.0	100.0
Other sources	(2)	(2)	(2)
Total	100.0	100.0	100.0
	Share of value (*percent*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	99.9	100.0	99.9
Other sources	0.1	(2)	0.1
Total	100.0	100.0	100.0
	Ratio of imports to U.S. production (*percent*)		
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Subtotal	5.6	7.3	8.3
Other sources	(2)	(2)	(2)
Total	5.6	7.3	8.3

[1] Values and unit values may be understated because of the ***.
[2] Less than 0.05 percent.

Note.–Because of rounding, figures may not add to the totals shown. Value = landed-duty-paid value, f.o.b. port of entry.

Source: Compiled from official Commerce statistics and from data submitted in response to the Commission's questionnaire sent to Hytek.

The United States also imports sows and boars for immediate slaughter. These are swine that have outlived their productive lives and are primarily sold to sausage manufacturers. Imported sows vastly outnumber imported boars. Fewer boars than sows are needed because of the industry's usage of artificial insemination; a single boar can produce semen for multiple sows. Table IV-3 presents the number of sows and boars slaughtered in the U.S. along with sows and boars for immediate slaughter imported into the United States from Canada.

Table IV-2
Live swine: Annual quantity (in *head of swine*) of U.S. imports from Canada, by HTS, 2002-04

HTS category	Description	2002	2003	2004
0103.91.0010[1]	Weighing less than 7 kilograms ("kg") each	([2])	1,446,950	3,086,970
0103.91.0020[1]	Weighing 7 kg or more but less than 23 kg each	([2])	348,588	613,461
0103.91.0030[1]	Weighing 7 kg or more but less than 50 kg each	([2])	873,955	1,922,052
0103.91.0000	Weighing less than 50 kg each	3,758,482	2,301,551	([2])
	Subtotal of less than 50 kg each	([2])	4,971,044	5,622,483
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	1,808,075	2,215,663	2,655,817
0103.92.0090	Weight 50 kg or more each, other	159,089	242,510	220,088
	Total	5,725,646	7,429,217	8,498,388

[1] HTS subheading 0103.91.00 was broken out into these statistical reference numbers beginning with July 2003 data.
[2] Data not provided at that level of detail during that period.

Source: Compiled from official Commerce statistics.

Table IV-3
Live swine: Sows and boars for slaughter, U.S. slaughter and imports from Canada, 2002-04

Item	2002	2003	2004
		Quantity (*thousand head*)	
U.S. slaughter[1]	3,456	3,456	3,530
Imports from Canada	587	415	451
		Share of quantity (*percent*)	
Canada	17.0	12.0	12.8

[1] U.S. slaughter under federal inspection.

Note--U.S. slaughter includes imports from Canada.

Source: Imports from Canada: USDA, AMS, 2002: USDA Market News WA_LS635, Feb. 11, 2003; 2003: USDA Market News WA_LS635, May 12, 2004; and 2004 derived from 2004 weekly issues of USDA Market News. See http://www.ams.usda.gov. U.S.: USDA ,NASS, Livestock Slaughter, January 2004 and January 2005.

Most U.S. imports of live swine consist of weanlings or feeder pigs. Larger U.S. producers (those selling 50,000 head or more of swine in a given year) tend to obtain Canadian pigs much more than smaller producers.[3]

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on U.S. consumption of live swine are presented in table IV-4. The quantity of U.S. consumption by number of animals and by weight increased by 3.1 percent and 3.8 percent, respectively, from 2002 to 2004. The value of U.S. consumption increased by 59.1 percent from 2002 to 2004.

U.S. market shares for live swine are presented in table IV-5. Measured by head of swine, U.S. producers' market share decreased by at least 2.5 percentage points between 2002 and 2004, and the share of subject imports from Canada increased by ***. Measured by weight,[4] U.S. producers' market share decreased by 1.1 percentage point between 2002 and 2004, and the share of subject imports from Canada increased by ***. Measured by value, market share shifted by a lesser amount.

The new supply of swine in the United States can be measured by using the head count of U.S. production (the pig crop), minus exports, plus U.S. imports.[5] This calculation and the resulting shares of the U.S. and Canadian products are presented in table IV-6.

Table IV-4
Live swine: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 2002-04

Item	Calendar year		
	2002	2003	2004
	Quantity (*1,000 head*)		
U.S. producers' U.S. shipments[1]	94,651	93,613	95,074
U.S. imports from:			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	5,726	7,429	8,498
All other	1	(2)	1
Total U.S. imports	5,727	7,429	8,499
Apparent consumption	100,378	101,042	103,573

Table continued on next page.

[3] Informa Economics, "The Structure of the US Hog Production Sector - A current snapshot," January 12, 2005, p. 5.

[4] This is basis for market share measurement that is recommended by respondents (Canadian responding parties to the investigation).

[5] This is the basis for measuring market penetration that is recommended by petitioners.

Table IV-4-*Continued*
Live swine: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 2002-04

Item	Calendar year		
	2002	2003	2004
	Quantity (*1,000 pounds*)		
U.S. producers' U.S. shipments[3]	25,852,792	26,002,408	26,563,028
U.S. imports from			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	708,507	873,332	1,025,054
All other	147	5	236
Total U.S. imports	708,654	873,337	1,025,290
Apparent consumption	26,561,446	26,875,746	27,588,318
	Value (*1,000 dollars*)		
U.S. producers' U.S. shipments[4]	8,564,943	9,730,663	13,594,769
U.S. imports[5] from			
Canada (subject)[6]	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	307,501	398,491	539,412
All other	204	54	509
Total U.S. imports	307,706	398,545	539,921
Apparent consumption	8,872,648	10,129,207	14,134,690

[1] Commercial and farm slaughter minus the number of imports of Canadian live swine.
[2] Fewer than 500 animals.
[3] Commercial slaughter weight minus the weight of imported Canadian live swine.
[4] The value of U.S. producers' U.S. shipments is calculated as the total live weight of U.S. commercial swine slaughter, minus the total weight of imports, times the price received.
[5] F.o.b. U.S. port of entry.
[6] Values may be understated because of the ***.

Source: Compiled from USDA statistics, official Commerce statistics, and from data submitted in response to the Commission's questionnaire sent to Hytek.

Table IV-5
Live swine: U.S. consumption and market shares, 2002-04

Item	Calendar year		
	2002	2003	2004
	Quantity (*1,000 head*)		
Apparent consumption	100,378	101,043	103,573
	Quantity (*1,000 pounds*)		
Apparent consumption	26,561,446	26,875,745	27,588,318
	Value (*1,000 dollars*)		
Apparent consumption	8,872,648	10,129,207	14,134,690
	Share of quantity by number of animals (*percent*)		
U.S. producers' shipments	94.3	92.6	91.8
U.S. imports from--			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	5.7	7.4	8.2
All other	(1)	(1)	(1)
Total U.S. imports	5.7	7.4	8.2
	Share of quantity by weight (*percent*)		
U.S. producers' shipments	97.3	96.8	96.3
U.S. imports from--			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	2.7	3.2	3.7
All other	(1)	(1)	(1)
Total U.S. imports	2.7	3.2	3.7
	Share of value (*percent*)		
U.S. producers' shipments	96.5	96.1	96.2
U.S. imports from--			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	3.5	3.9	3.8
All other	(1)	(1)	(1)
Total U.S. imports	3.5	3.9	3.8

[1] Less than 0.05 percent.

Source: Compiled from USDA statistics, official Commerce statistics, and data submitted in response to the Commission's questionnaire sent to Hytek.

Table IV-6
Live swine: U.S. supply of live swine, by sources, and shares of total supply, 2002-04

Item	Calendar year[1]		
	2002	2003	2004
	Quantity (*1,000 head*)		
U.S. production[2]	101,678	101,490	102,457
U.S. imports from--			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	5,726	7,429	8,498
All other	1	([3])	1
Total U.S. imports	5,727	7,429	8,499
U.S. exports	88	123	133
Total new supply (births+imports-exports)	107,316	108,797	110,822
	Share of total supply (*1,000 head*)		
U.S. production[2]	94.7	93.3	92.5
U.S. imports from--			
Canada (subject)	***	***	***
Canada (Hytek–*de minimis*)	***	***	***
Canada (total)	5.3	6.8	7.7
All other	([4])	([4])	([4])
Total U.S. imports	5.3	6.8	7.7
U.S. exports	0.1	0.1	0.1
Total new supply (births+imports-exports)	100.0	100.0	100.0

[1] Annual data are calculated from December of the previous year to November of the current year (e.g., 2002 is from December 2001 to November 2002).
[2] Pig crop.
[3] Less than 500 head.
[4] Less than 0.05 percent.

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

Source: Compiled from USDA statistics, official Commerce statistics, and from data submitted in response to Commission questionnaire sent to Hytek.

Information on the pig crops in the United States and Canada during 2001-04, by quarter, is presented in table IV-7.

Table IV-7
Live swine: Pig crops in the United States and Canada, by quarters, January-March 2001 through October-December 2004

Number of animals			
Period	**United States**	**Canada**	**Total**
2001:			
January-March	24,663,000	7,442,700	32,105,700
April-June	25,532,000	7,615,900	33,147,900
July-September	25,494,000	7,773,500	33,267,500
October-December	25,005,000	7,968,700	32,973,700
Total	100,694,000	30,800,800	131,494,800
2002:			
January-March	25,408,000	7,996,400	33,404,400
April-June	25,888,000	8,049,300	33,937,300
July-September	25,579,000	8,153,300	33,732,300
October-December	24,416,000	8,207,200	32,623,200
Total	101,291,000	32,406,200	133,697,200
2003:			
January-March	24,832,000	8,329,400	33,161,400
April-June	25,871,000	8,353,400	34,224,400
July-September	25,974,000	8,594,100	34,568,100
October-December	25,136,000	8,965,100	34,101,100
Total	101,813,000	34,242,000	136,055,000
2004:			
January-March	25,355,000	8,947,700	34,302,700
April-June	25,910,000	8,931,100	34,753,100
July-September	25,959,000	8,870,200	34,765,200
October-December	25,379,000	9,333,800	34,615,800
Total	102,603,000	36,082,800	138,436,800

Source: U.S. pig crop compiled from USDA, NASS *Quarterly Hogs and Pigs*, various issues. Canadian pig crop compiled from Statistics Canada, *Hog Statistics*, 2005, vol. 4, no. 1.

U.S. and Canadian Breeding Herds

The level of breeding stock (the breeding herd) plays an important role in swine production and the swine market. For example, Canada's breeding stock largely parallels its production and exports. From 1990 to 2004, the Canadian breeding stock increased by 51.9 percent (table IV-8). The ratio of the Canadian breeding stock to the U.S. and Canadian breeding stock combined grew from 13.7 percent in 1990 to 21.6 percent in 2004. Figure IV-1 illustrates that while the Canadian live swine breeding stock has risen and the United States' has fallen since 1990, the latter still dwarfs the former.

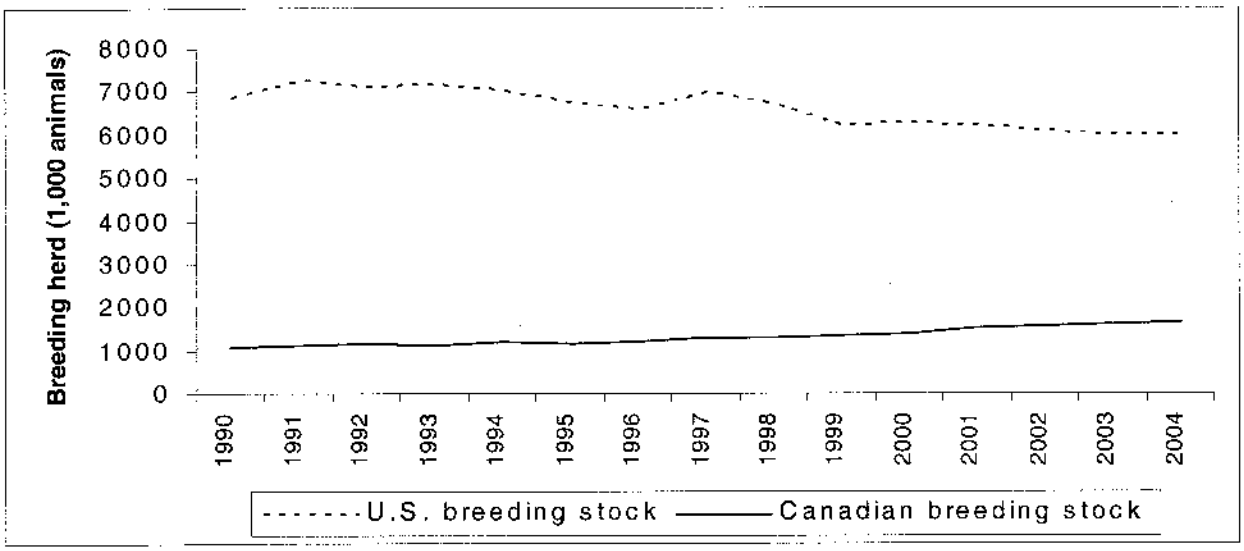
Table IV-8
Live swine: Breeding herds, United States and Canada

Year	U.S. breeding stock (*1,000 head*)[1]	Canadian breeding stock (*1,000 head*)[2]	Canadian breeding stock as share of U.S. and Canadian breeding stock (*Percent*)
1990	6,847	1,084	13.7
1991	7,229	1,122	13.4
1992	7,109	1,144	13.9
1993	7,166	1,121	13.5
1994	6,998	1,195	14.6
1995	6,770	1,152	14.5
1996	6,578	1,195	15.4
1997	6,957	1,287	15.6
1998	6,682	1,304	16.3
1999	6,233	1,346	17.8
2000	6,267	1,406	18.3
2001	6,201	1,512	19.6
2002	6,058	1,568	20.6
2003	6,009	1,617	21.2
2004	5,969	1,647	21.6

[1] As of December 1.
[2] As of January 1 of the following year (i.e., 2003 is January 1, 2004).

Source: U.S. breeding stock, 1980-2002, compiled from USDA, NASS, Livestock Track Records, September 2004; 2003 and 2004 compiled from USDA, NASS, Quarterly Hogs and Pigs, March 24, 2005. Canadian breeding stock, 1990-1998, compiled from Statistics Canada, CANSIM database found at www.stat.ca/english/ads/cansimII/index.htm, retrieved March 16, 2005; 1999-2004 compiled from Statistics Canada, Hog Statistics, 2005, vol. 4, no. 1.

Figure IV-1
Live swine: U.S. and Canadian breeding herds



Source: U.S. breeding stock, 1980-2002, compiled from USDA, NASS, Livestock Track Records, September 2004; 2003 and 2004 compiled from USDA, NASS, Quarterly Hogs and Pigs, March 24, 2005. Canadian breeding stock, 1990-1998, compiled from Statistics Canada, CANSIM database found at www.stat.ca/english/ads/cansimII/index.htm, retrieved March 16, 2005; 1999-2004 compiled from Statistics Canada, Hog Statistics, 2005, vol. 4, no. 1.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICING

Swine is generally considered to be a commodity product. Prices fluctuate from day to day and producers are price takers. A number of factors affect the price of swine, including the hog cycle; the volume of hogs being marketed; their average weight, which affects the aggregate quantity of pork produced; the quality of the animals being marketed, which affects the level of premium and/or discount from the base price; the price of pork and pork byproducts; weather conditions; input costs; and transportation costs.

Feed Costs

The primary input cost in the production of live swine is feed, which primarily consists of feed grains. The primary feed grain source is corn, though barley, grain sorghum, and feed wheat may also be used. During 2002-04, feed costs accounted for between 38.6 percent and 45.8 percent of total operating expenses for U.S. producers.

Transportation Costs to the U.S. Market

Transportation costs for live swine shipped from Canada to the United States averaged approximately 1.9 percent of the customs value of these imports during 2004. These estimates are derived from official import data and represent the transportation and other charges on imports.[1]

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that both the nominal and real values of the Canadian dollar appreciated relative to the U.S. dollar during 2002-04 (figure V-1).[2]

PRICING PRACTICES

Price-Related Questions

U.S. producers, brokers/distributors/importers, and packers were all asked whether their firms were price takers (accepts the market price) or price makers (influences or sets market prices for live swine). Of the producers that responded to the question, 50 reported that they are price takers, 5 reported that they are price makers, and 2 reported that both categories fit. Among brokers/distributors/importers that responded to the question, 12 stated that they are price takers, 3 stated that they are price makers, and two said that they are both. Among packers, 11 firms reported that they are price takers, seven reported that they are price makers, one reported that both categories fit, and one stated that it does not believe that any single firm or segment of the market can set a price.

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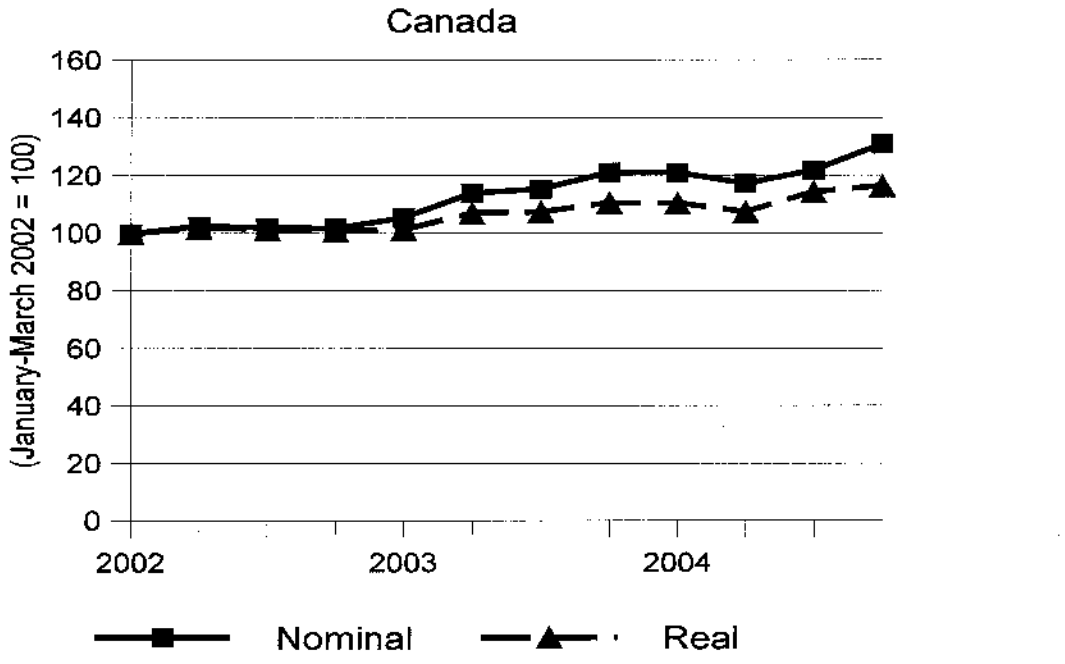
[1] The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2004 and then dividing by the customs value for the same period.

[2] Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and Canada.

Figure V-1
Exchange rates: Indexes of the nominal and real exchange rates of the Canadian dollar relative to the U.S. dollar, by quarters, 2002-04



Source: International Monetary Fund, *International Financial Statistics*, March 2005.

U.S. packers were asked separate questions on whether developments in the pork market or in other markets such as beef and chicken have affected live swine prices. Of the 20 responding packers, 16 answered yes with respect to the pork market, and 18 answered yes with respect to the other meat markets. Important factors frequently cited by packers as having an effect on pork and other meat included BSE, AI, and a trend toward high-protein, low-carb diets (see discussion in Part II).

U.S. producers, brokers/distributors/importers, and packers were all asked questions concerning the influence of the futures market. Producers and brokers/distributors/importers were asked to explain the role of hog futures prices on the prices of early weaned and feeder pigs. While the majority of the producers reported that they do not follow events in the futures market, a significant number said that selling prices of early weaned or feeder pigs are often based on futures prices. Six brokers/distributors/importers that responded to the question said that futures prices are an important determinant of prices for early weaned pigs and feeder pigs.[3] When packers were asked what effect, if any, prices in futures markets have on the prices of slaughter hogs, the majority reported that these markets have little, if any, effect on current prices. However, others reported that the futures prices are

[3] *** stated that the "price" (gross value of production) for feeder pigs is, in his opinion, not related to or caused by imports of feeder pigs, but rather is related to the futures prices for market hogs. He indicated that one could track the futures prices of market hogs with feeder pig prices and obtain a sizeable correlation. Staff telephone conversation with ***.

closely related to current market prices. For example, *** said that the prices are perfectly correlated, and that futures prices are often an indicator of price trends.

Price Determination and Contracts

Methods of arriving at prices of live swine are varied. In some cases prices are negotiated on a spot basis for delivery within a short period. In other cases, prices are fixed under contracts. In still other cases, prices are determined through a variety of formula contracts. Under these formula arrangements, the prices of the live swine may be determined by cash prices reported by the USDA, by wholesale meat prices in the pork market, or by hog futures prices. In other contracts, prices are determined by corn and other feeds. Window contracts are another method of determining prices of live swine. Under these arrangements, the contracts have an agreed-upon floor and ceiling for the prices. If the market price rises above the ceiling price, the full extent of the price increase will not be passed forward, and if the price falls below the floor price, the full extent of the price reduction will not occur. These contracts reduce the risk of large price fluctuations. Questionnaire responses relating to these methods of determining prices are discussed separately below for U.S. producers, importers/brokers/distributors, and packers.

U.S. Producers

Producers that purchased live swine were asked how prices of early weaned or feeder pigs produced in the United States and/or imported from Canada are determined. For the 21 producers that responded, the most common methods of arriving at prices were spot market negotiations and negotiations based on prices in the contract futures market for hogs, for both U.S. and Canadian pigs. Nine producers reported that all or part of their purchase prices were determined by spot market negotiations, and nine reported that all or part of their prices were determined on a formula based on hog prices in the futures market. Other reported methods for determining prices included formula contracts based on pork prices and futures prices, contracts based upon feed prices, and "window" contracts. Three producers reported that they purchase under contracts with a flat or fixed price.

Of the 10 producers that reported purchasing early weaned pigs on a contract basis during 2002-04, eight reported that all of their purchases are based on contracts and two others reported contract shares ranging from 22 percent to 50 percent. Of the three producers that reported purchasing feeder pigs on a contract basis during 2002-04, two reported that all of their purchases were based on contract, and one reported that 44 percent were under contract. Reported contract periods for purchases of pigs ranged from one to seven years, with most contracts having a length of three years or more. The majority of all contracts for purchases of pigs that are currently in effect were negotiated prior to the 2002-04 period.

Producers were also asked questions concerning the significance of contracts as a share of their total sales of pigs and market hogs. The responses show that early weaned pigs, feeder pigs, and market hogs are most commonly sold on a contract basis. Contract periods for sales by producers of both market hogs and pigs are typically from three to five years.

Importer/brokers/distributors

Importers/brokers/distributors that purchased live swine were asked how prices of early weaned or feeder pigs produced in the United States and/or imported from Canada are determined. For the 11 firms that responded, the most common methods of arriving at prices were spot market negotiations and negotiations based on prices in the contract futures market for both U.S. and Canadian pigs.

Very little data were received concerning purchase contracts for early weaned pigs and feeder pigs from brokers/distributors/importers. The small amount of information received indicates that these contracts are commonly from three to five years in length.

Packers

Packers were also asked whether their prices are determined on a spot-market negotiated basis, or on one of the contract methods described earlier. The results show that for packer purchases of both U.S.-produced hogs and imported hogs from Canada, formula contracts related to cash market hog prices are the most common method of determining prices. During 2004, questionnaire data show that 58 percent of U.S.-produced hogs were purchased under a formula contract related to hog prices, while 14 percent of purchases were on a negotiated spot market basis. Small amounts of purchases of U.S. hogs were also purchased under contract formulas relating to futures prices and meat prices, under contracts tied to feed prices, and under window contracts and other methods. In the case of imports from Canada, 61 percent of all purchases were under hog price formula contracts and 28 percent were purchased on a spot basis during 2004. There were no reported purchases of Canadian-produced hogs under any other kinds of formula contracts or under windows contracts.

Questionnaire responses show that hog contracts are typically for periods ranging from three to five years. Contract periods involving purchases of hogs for slaughter tend to be longer for purchases of U.S.-produced slaughter hogs than for imports from Canada. Fourteen packers reported that between 5 percent and 100 percent of their contracts involving U.S.-produced slaughter hogs were in effect prior to the 2002-04 period. None of the contracts involving Canadian slaughter hogs were in effect before 2002-04.

PRICE DATA

Price data for live swine were obtained from information developed by the USDA Agricultural Marketing Service (AMS) and from Commission questionnaires. In response to a request by the Commission staff, the USDA Marketing Service provided separate weighted-average delivered price data on sales of 10-pound, 40-pound, and 55-pound pigs produced in the United States and imported from Canada on a monthly basis during 2001-04. These data were provided to the AMS on a voluntary basis. The USDA considers the U.S.-produced and Canadian feeder pigs to be comparable products. The USDA also provided delivered purchase price data for U.S.-produced and Canadian slaughter hogs (barrows and gilts) on a monthly basis for the period from October 2001 through December 2004. These data were provided by packers under mandatory reporting requirements.[4] The prices of both U.S. and Canadian hogs were determined through negotiations as opposed to contracts.[5]

In addition to these data, the Commission requested delivered purchase price data from unrelated firms for 10-pound, 40-pound, and 55-pound pigs and for slaughter hogs, sows, and boars during the 2002-04 period from U.S. producers and brokers/distributors/importers. Since prices of live swine often fluctuate widely from day to day, all firms were requested to report prices on transactions on or near specific dates during specific months. The dates chosen were the second Wednesday during the middle

[4] The monthly data for these series are shown in app. G.

[5] The U.S. prices were based on transactions in the eastern and western corn belts. The eastern corn belt consists of the states of AL, GA, IL, IN, MD, MI, MS, NC, NY, OH, PA, SC, TN, and WI. The western corn belt area, which overlaps with the Iowa-Minnesota region, consists of the following states: IA, KS, MN, MO, NE, and SD.

month in each quarter of each of the three years. A total of 19 packers provided useable data relating to purchases of slaughter hogs, sows, and boars; these data have been aggregated into calendar quarters for purposes of this prehearing report. However, just a few producers and brokers/distributors/importers provided data and much of these data were not useable. The small amount of useable data from these sources relating to feeder pigs is presented in appendix H.

Price Trends

Quarterly weighted-average prices for U.S.-produced and imported 10-pound, 40-pound, and 55-pound pigs, and for slaughter hogs, sows, and boars are presented in tables V-1 through V-8 and figures V-2 through V-9.[6] [7] USDA data are presented on a quarterly basis for the period 2001-04 for feeder pigs (tables V-1 through V-3), and from October-December 2001 through October-December 2004 for slaughter hogs (table V-4). All prices obtained from Commission questionnaires (tables V-5 through V-8) are for the period 2002-04. For all series shown, the U.S. price and prices of imports from Canada move closely together. While prices of some products have often fluctuated widely during the periods shown, all prices were generally higher during 2004 than in the previous year.

[6] The weighted-average monthly data for sales of feeder pigs and purchases of slaughter hogs were converted to a quarterly basis by the Commission staff.

[7] The very low prices for 10-pound, 40-pound, and 55-pound feeder pigs during the summer and early fall of 2002 are the result of and oversupply and decline in the hog market during this period (e-mail response from ***, January 10, 2005).

Table V-1
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 10-pound pigs, and margins of underselling/(overselling), by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
Jan.-Mar.	$35.66	294,964	$40.81	29,622	(14.4)
Apr.-June	32.66	246,421	34.22	35,199	(4.8)
July-Sept.	32.32	304,124	32.99	33,126	(2.1)
Oct.-Dec.	33.89	231,921	36.23	45,165	(6.9)
2002:					
Jan.-Mar.	37.82	334,811	40.25	37,768	(6.4)
Apr.-June	26.80	322,059	23.45	34,988	12.5
July-Sept.	18.45	267,765	14.09	55,114	23.6
Oct.-Dec.	30.01	447,973	19.23	97,731	35.9
2003:					
Jan.-Mar.	32.38	537,313	33.50	48,233	(3.5)
Apr.-June	29.07	494,016	27.73	58,173	4.6
July-Sept.	28.52	486,750	25.25	73,216	11.5
Oct.-Dec.	31.63	528,287	29.57	93,598	6.5
2004:					
Jan.-Mar.	32.01	633,796	32.96	175,999	(3.0)
Apr.-June	31.53	691,758	30.22	109,545	4.1
July-Sept.	32.66	763,289	31.36	100,351	4.0
Oct.-Dec.	35.55	639,207	41.47	47,687	(16.6)

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table V-2
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 40-pound pigs, and margins of underselling/(overselling) by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
Jan.-Mar.	$53.15	195,000	$56.03	48,115	(5.4)
Apr.-June	53.92	165,026	56.23	30,650	(4.3)
July-Sept.	46.51	159,468	44.32	45,086	4.7
Oct.-Dec.	47.00	94,414	46.20	41,840	1.7
2002:					
Jan.-Mar.	57.47	120,369	66.29	53,638	(15.4)
Apr.-June	39.91	107,571	33.78	72,410	15.3
July-Sept.	17.77	80,585	16.59	101,057	6.7
Oct.-Dec.	38.28	138,024	39.02	117,416	(2.0)
2003:					
Jan.-Mar.	52.70	93,113	54.10	127,308	(2.7)
Apr.-June	44.16	103,280	46.44	191,333	(5.2)
July-Sept.	29.29	77,408	30.36	148,066	(3.7)
Oct.-Dec.	38.16	81,940	39.50	164,783	(3.5)
2004:					
Jan.-Mar.	46.42	133,093	47.86	233,805	(3.1)
Apr.-June	49.36	108,379	50.21	166,707	(1.7)
July-Sept.	43.07	184,505	45.41	172,696	(5.4)
Oct.-Dec.	62.90	173,831	59.68	71,010	5.1

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table V-3
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 55-pound pigs, and margins of underselling/(overselling) by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
Jan.-Mar.	$60.74	15,817	$64.68	55,900	(6.5)
Apr.-June	53.43	12,285	62.83	67,060	(17.6)
July-Sept.	52.10	7,665	51.05	80,375	2.0
Oct.-Dec.	54.14	11,180	51.51	56,619	4.9
2002:					
Jan.-Mar.	71.34	6,645	66.58	38,391	6.7
Apr.-June	39.02	8,485	38.90	21,905	0.3
July-Sept.	18.00	14,870	25.50	23,100	(41.7)
Oct.-Dec.	46.04	11,247	44.25	27,280	3.9
2003:					
Jan.-Mar.	60.47	18,785	57.69	45,424	4.6
Apr.-June	51.25	4,741	49.28	69,971	3.8
July-Sept.	28.44	640	34.13	87,220	(20.0)
Oct.-Dec.	40.50	2,040	42.96	58,467	(6.1)
2004:					
Jan.-Mar.	52.22	13,049	51.57	55,280	1.2
Apr.-June	53.71	5,116	55.05	41,033	(2.5)
July-Sept.	55.13	4,764	49.76	60,590	9.7
Oct.-Dec.	65.25	7,775	57.31	11,750	12.2

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table V-4
Live swine: Weighted-average purchase prices and quantities on certain purchases reported by U.S. packers for slaughter hogs (barrows and gilts) and margins of underselling/(overselling), by quarters, October-December 2001-October-December 2004

Period	United States		Canada		
	Carcass price (*Per cwt*)	Quantity (*Head count*)	Carcass price (*Per cwt*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
Oct.-Dec.	$48.07	1,897,194	$50.88	3,373	(5.8)
2002:					
Jan.-Mar.	50.92	1,918,415	49.87	15,345	2.1
Apr.-June	45.69	1,847,901	47.76	12,572	(4.5)
July-Sept.	43.84	1,949,783	42.31	9,642	3.5
Oct.-Dec.	40.37	1,968,660	40.07	3,910	0.8
2003:					
Jan.-Mar.	46.25	1,854,322	46.08	2,532	0.4
Apr.-June	56.21	1,816,014	50.78	2,630	9.7
July-Sept.	56.47	1,669,479	53.56	3,105	5.2
Oct.-Dec.	48.28	1,553,359	42.71	3,137	11.5
2004:					
Jan.-Mar.	58.85	1,399,870	52.49	1,264	10.8
Apr.-June	73.06	1,272,590	70.09	1,255	4.1
July-Sept.	75.04	1,341,361	72.28	2,505	3.7
Oct.-Dec.	72.23	1,519,528	64.70	7,340	10.4

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table V-5
Live swine: Weighted-average purchase prices and quantities on selected purchases reported by U.S. packers for slaughter hogs (barrows and gilts) and margins of underselling/(overselling), by quarters, 2002-04

Period	United States		Canada		
	Carcass price (*Per cwt*)	Quantity (*Head count*)	Carcass price (*Per cwt*)	Quantity (*Head count*)	Margin (*Percent*)
2002:					
Jan.-Mar.	$55.38	251,132	$58.29	9,326	(5.3)
Apr.-June	50.38	251,555	52.02	8,063	(3.3)
July-Sept.	50.47	257,106	52.39	8,629	(3.8)
Oct.-Dec.	44.77	251,016	42.56	9,301	4.9
2003:					
Jan.-Mar.	51.08	261,920	53.59	4,541	(4.9)
Apr.-June	60.63	247,737	63.68	6,957	(5.0)
July-Sept.	60.01	265,350	61.15	13,440	(1.9)
Oct.-Dec.	51.41	267,262	53.09	9,121	(3.3)
2004:					
Jan.-Mar.	63.55	262,478	67.67	8,063	(6.5)
Apr.-June	79.26	248,307	87.23	4,926	(10.1)
July-Sept.	75.02	268,457	79.65	7,667	(6.2)
Oct.-Dec.	76.52	272,369	81.55	9,819	(6.6)

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-6
Live swine: Weighted-average purchase prices and quantities reported by U.S. packers for sows on selected purchases, and margins of underselling/(overselling) by quarters, 2002-04

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Table V-7
Live swine: Weighted-average prices and quantities reported by U.S. packers for sows on selected purchases on a carcass weight basis, and margins of underselling/(overselling) by quarters, 2002-04

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Table V-8
Live swine: Weighted-average purchase prices and quantities reported by U.S. packers for boars on selected purchases, and margins of underselling/(overselling) by quarters, 2002-04

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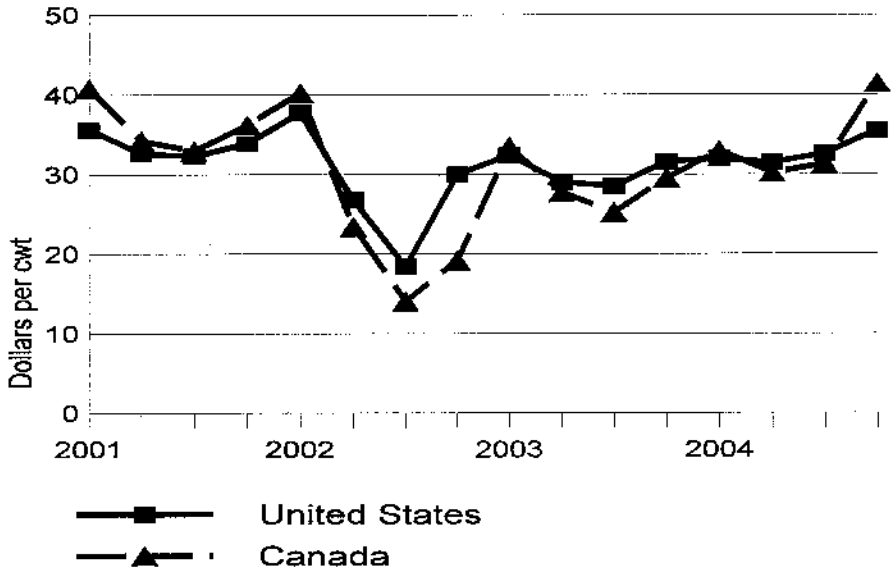
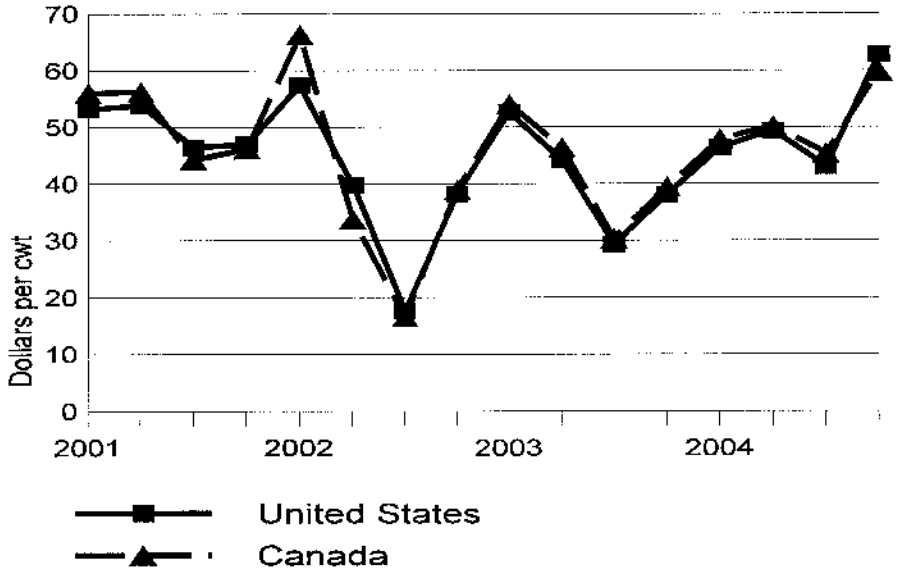
Figure V-2
Live swine: Weighted-average delivered prices on certain sales of U.S.-produced and imported 10-pound pigs, by quarters, 2001-04



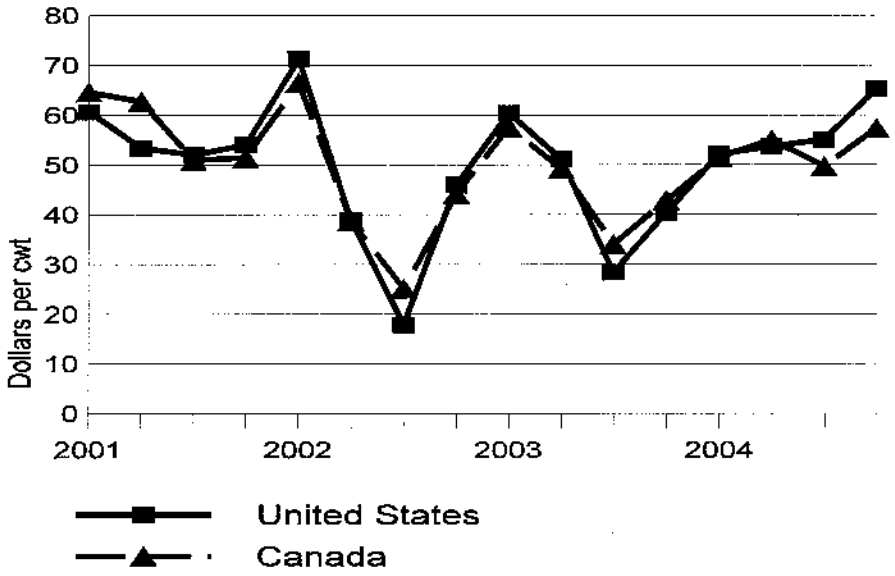
Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Figure V-3
Live swine: Weighted-average delivered prices on certain sales of U.S.-produced and imported 40-pound pigs, by quarters, 2001-04



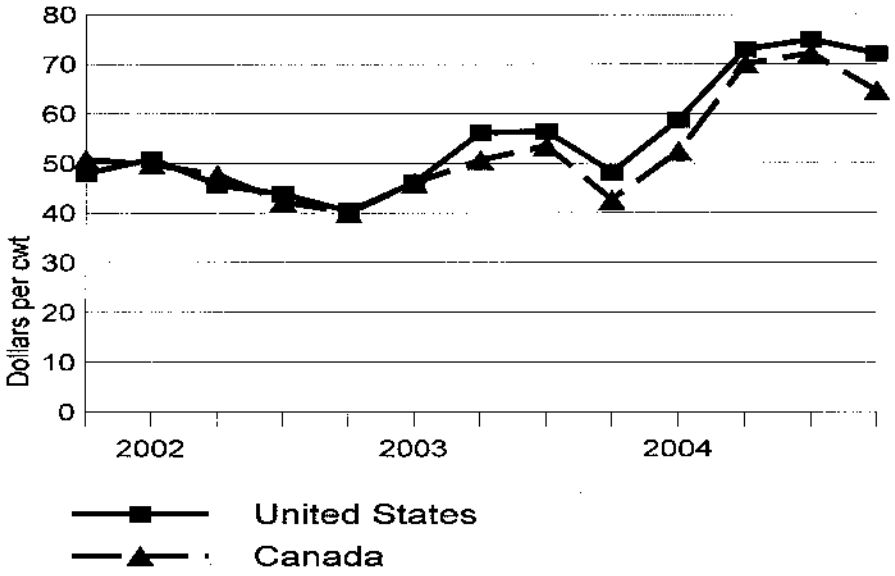
Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Figure V-4
Live swine: Weighted-average delivered prices on certain sales of U.S.-produced and imported 55-pound pigs, by quarters, 2001-04



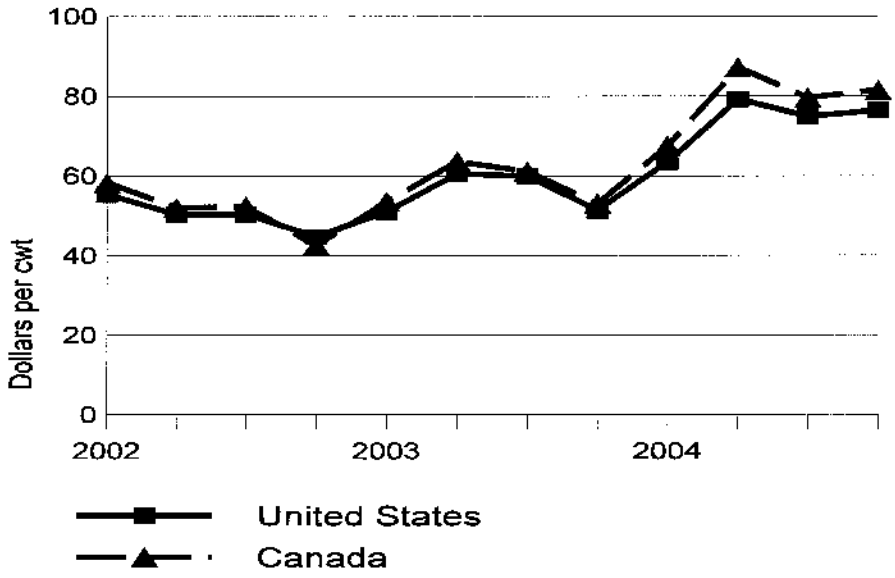
Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Figure V-5
Live swine: Weighted-average purchase prices on certain purchases reported by U.S. packers for slaughter hogs (barrows and gilts), by quarters, October-December 2001-October-December 2004



Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Figure V-6
Live swine: Weighted-average purchase prices on selected purchases reported by U.S. packers for slaughter hogs (barrows and gilts), by quarters, 2002-04



Source: Compiled from data submitted in response to Commission questionnaires.

Figure V-7
Live swine: Weighted-average purchase prices reported by U.S. packers for live sows on selected purchases, by quarters, 2002-04

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Table V-8
Live swine: Weighted-average prices reported by U.S. packers for sows on selected purchases on a carcass weight basis, by quarters, 2002-04

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Figure V-9
Live swine: Weighted-average purchase prices reported by U.S. packers for boars on selected purchases, by quarters, 2002-04

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Price Comparisons

While prices of U.S.-produced and Canadian-produced live swine often move very closely together, prices comparisons for all product categories were calculated. Margins of underselling are shown on the right-hand columns in tables V-1 through V-8.

In addition to this information, producers, brokers/distributors/importers, and packers were all asked to compare delivered prices of U.S.-produced and Canadian-produced live swine based upon their

purchasing experience during 2002-04. Some firms did not compare prices for all three years. For the few U.S. producers that made the comparisons for 2002, one ranked the prices comparable, three ranked the Canadian prices higher, and two ranked the U.S. prices higher. For 2003, three producers ranked the prices comparable, three ranked the Canadian prices higher, and two ranked the U.S. prices higher. For 2004, three producers ranked the prices comparable, two ranked the Canadian prices higher, and four ranked the U.S. prices higher. For brokers/distributors/importers that responded for 2002, four ranked the prices comparable, three ranked the Canadian prices higher, and one ranked the U.S. prices higher. For 2003, three brokers/distributors/importers ranked the prices comparable, three ranked the Canadian prices higher, and one ranked the U.S. prices higher. For 2004, four brokers/distributors/importers ranked the prices comparable and three ranked the Canadian prices higher.

For packers that made the comparisons, the results tended to be similar for each of the three years. For 2002, 15 packers ranked the prices comparable, 2 ranked the Canadian prices higher, and 1 ranked the U.S. prices higher. For 2003, 13 packers ranked the prices comparable, 2 ranked the Canadian prices higher, and 1 ranked the U.S. prices higher. For 2004, 12 packers ranked the prices comparable, 2 ranked the Canadian prices higher, and 2 ranked the U.S. prices higher.

As an additional question, packers were asked if there is a difference in the prices that they pay for U.S.-produced and imported hogs from Canada. Of the 16 packers that responded to the question, 13 answered no and 3 answered yes. For the packers that answered yes, explanations were varied. One said that its purchases from Canada are generally last notice-last minute purchases. Another reported that prices may differ because of insufficient plant capacity or an oversupply of hogs from Canada. A third firm said that hogs from Canada are more uniform than U.S. hogs, grade higher, and will earn more per pound even when the hog price is the same.

LOST SALES AND LOST REVENUES

Petitioners stated that "specific information concerning lost sales and lost revenues are not provided in this petition because they are not readily available to petitioners."[8] During the preliminary phase of this investigation, the Commission sent questionnaires to U.S. live swine producers and asked (1) whether their firm had reduced prices of live swine in order to compete with imports of live swine from Canada, and (2) whether it had lost sales due to competition from imports of from Canada. A small number of firms provided information in response to the questions. Eight of 22 firms reported that they had reduced their prices in order to avoid losing sales to competitors selling live swine from Canada, while 14 firms reported that they had not. With regard to lost sales, 3 of 19 responding firms reported that they lost sales of domestic live swine due to competition with Canadian live swine, but these firms were unable to provide any specific information concerning the lost sales or lost revenues.[9] Some firms noted that they had not reduced their prices because they were price takers and did not set prices in the first place.

During the final phase of this investigation, producers were again asked to report instances of lost sales or lost revenues. Most either indicated that they did not experience lost sales during the 2002-04 period, or did not respond to the question. Of the 64 producers that provided responses to the questionnaires, two firms stated that they had lost revenue during the period as a result of competition from imports from Canada. However, they did not provide the specific information needed to investigate the allegations. None of the firms provided any lost sales allegations.

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[8] Petition, p. 50.

[9] One firm, ***, submitted some information for two lost sales allegations; however, the information was incomplete.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

The financial data presented in this section of the report are from business proprietary responses of live swine producers and from composite USDA data. The aggregated financial data differ from the typical results of operations (income-and-loss) presented by Commission staff because many hog production facilities use a cash basis of accounting, as opposed to accrual accounting under generally accepted accounting principles (GAAP). Data for farm assets and capital expenditures are from Commission questionnaires.

The majority of respondents reported information on a calendar-year basis or at least three quarters in the same calendar period. Some responses, however, were based on fiscal years ending in the middle, close to the middle, or prior to the middle of each calendar year. Because of these timing differences, financial results are separated into companies that reported on a calendar-year basis (or fiscal periods on or after September 30) and all other fiscal-year respondents. Data for combined calendar and fiscal-year respondents are also presented.

Operations on All Live Swine

Income-and-loss and corresponding average unit value data for U.S. live swine producers are separately presented in table VI-1 (calendar years or fiscal years ending on or after September 30) and table VI-2 (fiscal years ending prior to September 30). Table VI-3 presents combined financial data for both calendar and fiscal-year respondents.[1] [2] Appendix J presents financial results of U.S. producers that were related to Canadian firms engaged in the production of live swine and/or U.S. producers that imported and/or purchased Canadian live swine.

Sales of market hogs was the primary type of live swine sales reported to the Commission, which is consistent with the fact that the largest producers represent integrated operations and tend to dominate the reported financial information. These producers grow live swine in their own (or leased) facilities or contract out the production to growers. Among the largest vertically integrated producers, at least some hogs are still purchased from other independent producers to supplement their own production of hogs to be finished.[3]

As described by one producer, U.S. hog production operations are exposed to significant commodity price fluctuations,[4] with year-to-year changes in profitability driven by prevailing hog prices

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[1] Forty-four calendar-year companies are included in table VI-1. The following companies reported on a fiscal-year basis and are also presented in the identified table. Table VI-1: ***. Table VI-2: ***. The questionnaire response of Murphy Brown (Smithfield) was verified by staff. Changes resulting from verification are reflected in the staff report.

[2] While detailed cost information was reported by most producers, it is not separately presented in absolute amounts in table VI-1, table VI-2, or table VI-3 because not all producers reported the information. Selected expense ratios are presented and reflect those respondents that reported this information.

[3] "For fiscal 2004, the costs associated with our North Carolina processing facility reflected the fact that approximately 27 percent of the hogs processed at that facility were purchased at market price from independent local farmers under supply contracts." Premium's 2004 10-K, p. 18. "Hogs processed at our plant include company raised hogs as well as hogs raised by third parties purchased under contract." 2003 Seaboard annual report, p. 4.

[4] Seaboard's 2003 10-K at p. 9.

Table VI-1
Live swine: Results of operations of reporting U.S. producers, calendar years or fiscal years (on or after September 30) 2002-04

Item	2002	2003	2004
	Quantity (*head*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	811,948	888,106	1,086,239
Feeder pigs, 15 to 50 lbs.	811,336	779,034	632,021
Feeder pigs, 50 to 110 lbs.	216,713	200,192	155,835
Market hogs	9,894,557	10,043,847	9,921,071
Other (culled, etc.)	895,428	886,490	984,592
Subtotal	12,629,982	12,797,669	12,779,758
Transfers to related firms:			
Feeder pigs, under 15 lbs.	1,566,512	1,524,207	1,484,501
Feeder pigs, 15 to 50 lbs.	0	0	9,694
Feeder pigs, 50 to 110 lbs.	1,384,643	1,410,889	1,360,349
Market hogs	13,733,494	14,159,561	15,716,652
Other (culled, etc.)	43,525	40,690	48,777
Subtotal	16,728,174	17,135,347	18,619,973
Total	29,358,156	29,933,016	31,399,731
	Value (*1,000 dollars*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	19,845	22,862	33,224
Feeder pigs, 15 to 50 lbs.	28,061	29,767	26,638
Feeder pigs, 50 to 110 lbs.	6,082	7,335	6,488
Market hogs	878,865	965,457	1,204,596
Other (culled, etc.)	66,822	66,751	99,227
Subtotal	999,675	1,092,172	1,370,173
Transfers to related firms:			
Feeder pigs, under 15 lbs.	45,696	46,177	46,826
Feeder pigs, 15 to 50 lbs.	0	0	408
Feeder pigs, 50 to 110 lbs.	60,981	62,603	60,810
Market hogs	1,281,355	1,475,192	2,168,932
Other (culled, etc.)	3,698	4,091	6,210
Subtotal	1,391,729	1,588,063	2,283,185
Total	2,391,404	2,680,235	3,653,358

Continued on following page.

Table VI-1--*Continued*
Live swine: Results of operations of reporting U.S. producers, calendar years or fiscal years (on or after September 30) 2002-04

Item	2002	2003	2004
	Value (*1,000 dollars*)		
Total expenses	2,636,148	2,781,660	3,007,076
Net income or (loss)	(244,744)	(101,425)	646,283
	Value (*per head*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	$24	$26	$31
Feeder pigs, 15 to 50 lbs.	35	38	42
Feeder pigs, 50 to 110 lbs.	28	37	42
Market hogs	89	96	121
Other (culled, etc.)	75	75	101
Subtotal average	79	85	107
Transfers to related firms:			
Feeder pigs, under 15 lbs.	29	30	32
Feeder pigs, 15 to 50 lbs.	[1]	[1]	42
Feeder pigs, 50 to 110 lbs.	44	44	45
Market hogs	93	104	138
Other (culled, etc.)	85	101	127
Subtotal average	83	93	123
Total average	81	90	116
	Ratio to net sales (*percent*)		
Purchases:			
Feeder pigs, under 15 lbs.	3.9	3.8	2.5
Feeder pigs, 15 to 50 lbs.	1.0	0.8	0.7
Feeder pigs, 50 to 110 lbs.	2.9	2.7	2.0
Total purchases	7.7	7.3	5.2
Feed costs	49.8	49.4	42.3
Total expenses (including above)	110.2	103.8	82.3
Net income or (loss)	(10.2)	(3.8)	17.7
	Number of firms reporting		
Data	47	49	45
Net losses	36	28	9

[1] Not applicable.

Note: 2004 data consist of data for periods ending September 30, 2004; October 31, 2004; November 30, 2004; December 31, 2004; and early January 2005. 2002 and 2003 data are for the same periods ending one and two years earlier, respectively.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-2
Live swine: Results of operations of reporting U.S. producers, fiscal years (prior to September 30) 2002-04

Item	2002	2003	2004
	Quantity (*head*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	0	135	23,535
Feeder pigs, 15 to 50 lbs.	248	0	0
Feeder pigs, 50 to 110 lbs.	1,748,207	1,841,534	1,751,943
Market hogs	1,841,940	1,720,461	2,000,525
Other (culled, etc.)	159,271	144,574	200,619
Subtotal	3,749,666	3,706,704	3,976,622
Transfers to related firms:			
Feeder pigs, under 15 lbs.	0	0	0
Feeder pigs, 15 to 50 lbs.	0	0	0
Feeder pigs, 50 to 110 lbs.	8,385	0	0
Market hogs	3,239,658	3,648,565	3,986,994
Other (culled, etc.)	0	0	0
Subtotal	3,248,043	3,648,565	3,986,994
Total	6,997,709	7,355,269	7,963,616
	Value (*1,000 dollars*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	0	4	667
Feeder pigs, 15 to 50 lbs.	7	0	0
Feeder pigs, 50 to 110 lbs.	90,102	74,022	89,187
Market hogs	192,385	151,471	221,689
Other (culled, etc.)	15,778	9,923	18,499
Subtotal	298,272	235,420	330,042
Transfers to related firms:			
Feeder pigs, under 15 lbs.	0	0	0
Feeder pigs, 15 to 50 lbs.	0	0	0
Feeder pigs, 50 to 110 lbs.	380	0	0
Market hogs	370,877	311,592	421,814
Other (culled, etc.)	0	0	0
Subtotal	371,257	311,592	421,814
Total	669,529	547,012	751,856

Continued on following page.

Table VI-2--*Continued*
Live swine: Results of operations of reporting U.S. producers, fiscal years (prior to September 30) 2002-04

Item	2002	2003	2004
	Value (*1,000 dollars*)		
Total expenses	628,440	662,362	769,074
Net income or (loss)	41,089	(115,349)	(17,218)
	Value (*per head*)		
Commercial sales:			
Feeder pigs, under 15 lbs.	[1]	$30	$28
Feeder pigs, 15 to 50 lbs.	$28	[1]	[1]
Feeder pigs, 50 to 110 lbs.	52	40	51
Market hogs	104	88	111
Other (culled, etc.)	99	69	92
Subtotal average	80	64	83
Transfers to related firms:			
Feeder pigs, under 15 lbs.	[1]	[1]	[1]
Feeder pigs, 15 to 50 lbs.	[1]	[1]	[1]
Feeder pigs, 50 to 110 lbs.	45	[1]	[1]
Market hogs	114	85	106
Other (culled, etc.)	[1]	[1]	[1]
Subtotal average	114	85	106
Total average	96	74	94
	Ratio to net sales (*percent*)		
Purchases:			
Feeder pigs, under 15 lbs.	2.9	5.1	4.7
Feeder pigs, 15 to 50 lbs.	0.5	0.7	0.5
Feeder pigs, 50 to 110 lbs.	0.7	0.8	0.5
Total purchases	4.2	6.5	5.7
Feed costs	43.2	59.2	51.3
Total expenses (including above)	93.9	121.1	102.3
Net income or (loss)	6.1	(21.1)	(2.3)
	Number of firms reporting		
Data	8	8	8
Net losses	3	7	5

[1] Not applicable.

Note: 2004 data consist of data for periods ending January 31, 2004; February 28, 2004; March 31, 2004; May 28, 2004; June 30, 2004; and August 31, 2004. 2002 and 2003 data are for the same periods ending one and two years earlier, respectively.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-3
Live swine: Results of operations of all reporting U.S. producers, calendar and fiscal years 2002-04

Item	2002	2003	2004
	Quantity (*head*)		
Total	36,355,865	37,288,285	39,363,347
	Value (*1,000 dollars*)		
Total sales value	3,060,933	3,227,247	4,405,215
Total operating expenses	3,264,587	3,444,021	3,776,149
Total net income or (loss)	(203,654)	(216,774)	629,065
	Ratio to net sales (*percent*)		
Total expenses	106.7	106.7	85.7
Net income or (loss)	(6.7)	(6.7)	14.3
	Value (*per head*)		
Total average sales	$84	$87	$112
Total average expenses	90	92	96
Total average net income or (loss)	(6)	(6)	16
	Value (*1,000 dollars*)		
Capital expenditures[1]	232,690	90,411	62,042
Total assets	2,575,387	2,760,297	3,224,066
Foreign exchange and hedging gains or (losses)	(12,263.5)	29,469.5	2,377.9
	Number of firms reporting		
Data	55	57	53
Net losses	39	35	14

[1] ***. According to Seaboard's 2002 10-K, "{d}uring 2002, the Company invested $135.1 million in the Pork segment primarily to purchase hog production facilities previously leased, expand the hog production facilities, make improvements to the pork processing plant, and purchase options for land upon which the Company could decide to expand operations. . ."

Note: This table is a combination of table VI-1 and table VI-2. ***.

Source: Compiled from data submitted in response to Commission questionnaires.

and the cost of feed corn and soybean meal.[5] Consistent with this view, feed cost was the primary expense item shown in table VI-1 and table VI-2. Purchases of feeder pigs (particularly for table VI-1 which represented a larger number of less fully integrated producers), labor, housing, depreciation, vaccination, breeding expenses, and utilities were also important cost items.[6]

The period examined (2002-04) began (see table VI-1) with losses in 2002 primarily due to lower market hog prices compared to 2001, as well as higher feed costs.[7] Losses continued into 2003 with continued higher feed costs and only moderate increases in average unit values. A notable feature of the period examined was the consistent increase in overall sales volume combined with higher average hog prices after 2002.

Based on the information submitted to the Commission, most producers appear to have experienced improvement in 2004 with the end of the period reflecting "strong overall market conditions" according to one producer.[8] The improvement in average sales value was reportedly due to high domestic beef prices which in turn boosted pork prices.[9] Pork exports and volume were also reportedly higher due to the ban on U.S. beef exports and the depreciation of the dollar. On the cost side, lower feed costs resulted from improved corn and soybean crops in 2004.

Operations on Sows and Boars

Table VI-4 presents the limited financial information reported to the Commission regarding operations on sows and boars. While 34 respondents provided volume and revenue information on their sales of sows and boars, only 16 of these reported associated cost information. According to one producer, "{t}he only reason the operation sells sows/boars from the herd is because they are no longer productive and need to be culled from the herd. As a sow is culled, a replacement gilt enters the herd to take her spot. The sows/boars are sold and the value helps to offset the cost of the incoming gilt."[10] Most descriptions of sow and boar sales were similar to this one.

Gilts (for breeding) and boars are generally treated as assets for accounting purposes with the purchased (or accumulated costs) expensed periodically in the form of depreciation. Producers generally indicated that operating expenses specific to sows and boars are not separately tracked. The primary reason for this is that sows and boars are maintained for the production of market hogs. As one producer put it "{o}perating costs are figured on a per pig basis, and not directly assigned to sows. Sow sales are

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[5] Ibid. Smithfield's 2004 10-K at p. 4. Premium's 2004 10-K at p. 16. Many companies use derivatives to manage revenue and cost-related volatility. For example, Premium Standard states that "{i}n our hog production segment we use forward contracts, as well as futures and options contracts, to establish adequate supplies of future grain requirements, to secure margins and to reduce the risk of market fluctuations." Premium Standard 2004 10-K, p. 24. While reducing volatility, derivatives also limit the positive upside potential of commodity price movements. Smithfield's 2nd quarter 10-Q notes that operating income was reduced because the company had already secured margins in early 2004 ". . . before the unexpected increase in live hog market prices occurred during the first quarter of fiscal 2005." Smithfield 2nd quarter FY 2005, p. 12. Foreign exchange and hedging gains and losses (combined), which are included in the reporting producers' financial results, are separately identified in table VI-3.

[6] See footnote 2 regarding the presentation of detailed cost information reported by U.S. producers.

[7] *(Live Swine from Canada, Investigations Nos. 701-TA-438 (Preliminary) and 731-TA-1076 (Preliminary),* USITC Publication 3693, May 2004, table VI-2, p. VI-4.

[8] Seaboard referring to the period through its 3rd quarter 2004 (ending October 2, 2004). Seaboard's 2004 10-Q (3rd Quarter), p. 12.

[9] November 29, 2004, Farmdoc Weekly Update, p. 1. www.farmdoc.uiuc.edu, retrieved January 4, 2005.

[10] *** questionnaire response, III-8.

Table VI-4
Live swine: Results of sow and boar operations of all reporting U.S. producers, calendar and fiscal years 2002-04

Item	2002	2003	2004
	Quantity (*head*)		
Commercial sales:			
Sows	369,510	403,888	442,253
Boars	22,496	20,774	18,374
Transfers to related firms:			
Sows	12,654	11,704	195
Boars	0	0	0
Total	404,660	436,366	460,822
	Value (*1,000 dollars*)		
Commercial sales:			
Sows	51,367	38,841	64,916
Boars	3,032	2,546	2,360
Transfers to related firms:			
Sows	1,320	1,181	28
Boars	0	0	0
Total sales	55,719	42,568	67,304
Total operating expenses/book value	77,280	79,721	86,394
Net income or (loss)	(21,561)	(37,153)	(19,090)
	Ratio to net sales (*percent*)		
Total operating expenses/book value	138.7	187.3	128.4
Net income or (loss)	(38.7)	(87.3)	(28.4)
	Value (*per head*)		
Commercial sales value:			
Sows	$139	$96	$147
Boars	135	123	128
Transfers to related firms:			
Sows	104	101	144
Boars	[1]	[1]	[1]
	Number of firms reporting		
Data	13	15	14
Net losses	8	9	7

[1] Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

strictly based on production and not for their retail value."[11] The cost information reported to the Commission generally reflected two formats: book value and estimated per-head operating expenses.[12]

CAPITAL AND INVESTMENT

The Commission requested that U.S. processors describe any actual or potential negative effects of imports of live swine from Canada on their firms' growth, investment, and ability to raise capital or development and production efforts. Responses received are presented in appendix I.

USDA DATA ON LIVE SWINE PRODUCTION COSTS AND RETURNS

USDA data, presented in table VI-5, show U.S. live swine production cash costs and returns for 2001, 2002, and 2003, which are the most recent periods for which data are available.[13] The cash costs and returns for 2003, by industry segment, are presented in table VI-6. The hog production segment data in table VI-6 are the same as for the 2003 period shown in table VI-5.

USDA production costs and returns data were originally developed from a 1998 survey base year, with the operation size averaging 2,126 head of market hogs in 2002 and 2,202 head of market hogs in 2003. This is small compared to modern U.S. commercial hog farms; i.e., most U.S. production volume now is derived from large, integrated, commercial operations.

USDA data are generally consistent with the financial information reported to the Commission by U.S. producers. This is particularly true when considering table VI-2 which reflects fiscal periods that in some cases substantially overlap calendar years 2001, 2002, and 2003. The Commission data (table VI-2) and USDA data indicate that calendar year 2001/fiscal year 2002 was profitable. Calendar year 2002/fiscal year 2003 reflected a decline to losses followed by a subsequent improvement (or reduced losses) in calendar year 2003/fiscal year 2004.

Average market hog values followed a similar trend. USDA data indicate that the per-head value of market hogs was $116, $88, and $101 in 2001, 2002, and 2003, respectively.[14] This is generally consistent with the average market hog value calculated from the data reported to the Commission (see table VI-1 for the 2002 and 2003 periods and table VI-2).

U.S. GOVERNMENT PROGRAMS

Live swine producers in the United States receive no direct payments from the Federal Government and do not participate in any price support programs, but the USDA does have authority to buy certain processed pork products (primarily ground pork and smoked fully cooked hams) under commodity purchase programs. The Secretary of Agriculture can purchase pork products under the following circumstances: (1) when surpluses exist; (2) to provide lunches for schoolchildren through the

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[11] *** questionnaire response, note to table III-10.

[12] Petitioners' representative was contacted in an effort to determine whether there are any industry data on sow and boar profitability which could supplement the questionnaire responses. The response was negative. E-mail from ***, February 3, 2005.

[13] The data do not include owner labor.

[14] Based on the USDA information reported in app. C (final and preliminary phase), market hogs averaged 271 pounds per head in 2001, 273 pounds per head in 2002, and 278 pounds per head in 2003. These amounts were used to convert the market-hog-per-hundredweight values reported in table VI-5 to an estimated per-head value.

Table VI-5
Live swine: Hog production cash costs and returns per hundredweight gain, 2001-03

	2001	2002	2003
	Value (*per cwt*)		
Gross value of production:			
Market hogs	$42.97	$32.50	$36.20
Feeder pigs	14.35	11.24	12.36
Cull stock	1.39	0.89	1.07
Breeding stock	1.01	0.66	0.81
Inventory change	0.63	0.42	0.78
Other income	1.65	1.32	1.52
Total gross value of production	62.00	47.03	52.74
Cash expenses:			
Feed --			
Grain	5.34	6.23	5.88
Protein sources	4.62	4.68	4.90
Complete mixes	10.22	10.43	11.09
Other feed items	0.18	0.18	0.18
Total feed cost	20.36	21.52	22.05
Other variable expenses:			
Feeder pigs	16.63	12.99	14.38
Veterinary and medicine	1.10	1.08	1.10
Bedding and litter	0.03	0.03	0.03
Marketing	1.05	1.04	1.07
Custom services	0.42	0.41	0.42
Fuel, lube, and electricity	1.32	1.17	1.45
Repairs	0.78	0.79	0.79
Hired labor	2.39	2.55	2.70
Other operating costs	0.04	0.04	0.04
Interest on operating capital	0.70	0.33	0.22
Total, variable operating costs	44.82	41.95	44.25
Fixed expenses:			
General farm overhead	0.97	0.99	1.00
Taxes and insurance	0.46	0.45	0.45
Depreciation	10.74	10.53	10.69
Total fixed expenses	12.17	11.97	12.14
Total expenses	56.99	53.92	56.39
Gross value of production less expenses	5.01	(6.89)	(3.65)

Note: Other income includes the value of manure production. Other operating costs include odor and control fees, permits, licenses, and other regulatory costs.

Source: Compiled from official statistics of the USDA.

Table VI-6
Live swine: U.S. production cash costs and returns for hog production, farrow-to-finish, farrow-to-feeder pig, and feeder pig-to-finish, 2003

Item	Hog production	Farrow-to-finish	Farrow-to-feeder pig	Feeder pig-to finish
	Value (*per cwt*)			
Gross value of production:				
Market hogs	$36.20	$35.86	$1.78	$43.23
Feeder pigs	12.36	0.67	102.91	0.33
Cull stock	1.07	1.74	2.53	0.30
Breeding stock	0.81	0.18	0.17	0.31
Inventory change	0.78	0.08	(4.57)	2.04
Other income	1.52	1.58	1.39	1.49
Total gross value of production	52.74	40.11	104.21	47.70
Cash expenses:				
Feed --				
Grain	5.88	9.70	1.96	3.77
Protein sources	4.90	8.81	0.92	2.49
Complete mixes	11.09	4.91	26.98	13.41
Other feed items	0.18	0.33	0.24	0.06
Total feed cost	22.05	23.75	30.10	19.73
Other variable expenses:				
Feeder pigs	14.38	0.09	0.59	25.44
Veterinary and medicine	1.10	1.51	2.77	0.46
Bedding and litter	0.03	0.04	0.06	0.01
Marketing	1.07	0.39	3.83	0.93
Custom services	0.42	0.32	0.29	0.46
Fuel, lube, and electricity	1.45	1.69	4.08	0.83
Repairs	0.79	1.19	1.15	0.39
Hired labor	2.70	3.47	14.06	0.77
Other operating costs	0.04	0.04	0.04	0.03
Interest on operating capital	0.22	0.15	0.23	0.26
Total, variable operating costs	44.25	32.64	57.20	49.31
Fixed expenses:				
General farm overhead	1.00	1.34	1.61	0.65
Taxes and insurance	0.45	0.55	0.94	0.32
Depreciation	10.69	12.08	28.04	6.90
Total fixed expenses	12.14	13.97	30.59	7.87
Total expenses	56.39	46.61	87.79	57.18
Gross value of production less expenses	(3.65)	(6.50)	16.42	(9.48)

Note: Other income includes the value of manure production. Other operating costs include odor and control fees, permits, licenses, and other regulatory costs.

Source: Compiled from official statistics of the USDA.

National School Lunch Program; and (3) to provide food to the elderly, needy families, and other charitable institutions. During fiscal year 2004 (through September 2003), the USDA purchased 26.8 million pounds of pork totaling $29.8 million.[15] The USDA purchases only pork products of 100-percent domestic origin.[16]

[15] *Frozen Pork, Purchases by Vendor, fiscal year 2004*, Livestock and Seed Program, AMS, USDA. www.ams.usda.gov, retrieved January 24, 2005.

[16] "Veneman announces $30 million purchase of pork products," USDA News Release. www.usda.gov, retrieved April 22, 2004.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

The Commission sent questionnaires to 88 firms identified in the petition as possible Canadian producers/exporters of subject merchandise, as well as to numerous Canadian live swine producers identified in information provided by Customs. Thirty Canadian producers/exporters of live swine provided responses to the Commission's request for information. However, for complete coverage of the Canadian industry, a number of other sources are used herein, including data from Statistics Canada and the Foreign Agriculture Service of the United States Department of Agriculture ("FAS-USDA").

THE INDUSTRY IN CANADA

The industry in Canada is much less geographically concentrated than that of the United States, reportedly providing several advantages, especially in the area of health, but also making it more difficult to present a solid overview. This geographic disbursement of farms and facilities means that trends vary across the country with regard to inventories and specializations. For instance, from October 1, 2003 to October 1, 2004, four Canadian provinces expanded their breeding herds while three saw a decline.[1] One definite observation, however, is that Canadian farmers, animal producers, and provincial governments have promoted livestock operations as growth industries since the mid-1990s. It was then that the Crow Rate rail subsidies on the export of grain out of the prairie provinces were repealed. This resulted in the expansion of the live swine industry where grain was cheap and readily available, but also reportedly meant that the swine farmers would be dependent on exports.[2] This explanation is in contrast to the situation that evolved in the United States where proximity to abundant supplies of feed increased the industry's finishing efficiency rather than production.

Petitioners have alleged that certain government programs have bolstered the growth of the Canadian swine industry. These include the Canadian Agriculture Income Stabilization ("CAIS") program, designed to provide assistance to producers hurt as a result of BSE or other factors, which paid out $777 million in 2004.[3] Also mentioned was the Agriculture Revenue Stabilization Program ("ASRA") in Quebec. This program attempts to stabilize farm incomes and has been described as yielding an average payment over the last ten years of $15 per animal.[4]

Data for the Canadian live swine industry for 2002-04 are presented in table VII-1. Table VII-2 presents live swine inventories by province in Canada.

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[1] Hog Statistics, Statistics Canada, 2004, vol. 3, no. 4.

[2] Hurt, Chris, "2005: Another Great Hog Year," Grain Price Outlook, January 2005.

[3] The Daily, Statistics Canada, Thursday, February 24, 2005.

[4] Powell, Doug, AnimalNet, September 2, 2004, http://archives.foodsafetynetwork.ca/animalnet/2004/9-2004/animalnet_sept_2-2.htm, retrieved March 10, 2005.

Table VII-1
Live swine: Canadian breeding stock, inventories, production, and shipments, 2002-04

Item	2002	2003	2004
		Quantity *(1,000 head)*	
Breeding stock[1]	1,512	1,568	1,617
Production[2]	32,406	34,242	36,083
Production[3]	29,645	31,309	32,807
Shipments:			
Internal consumption	0	0	0
Home market[4]	23,613	24,022	24,524
Exports to--			
The United States:			
Feeder swine	3,758	4,971	5,622
Swine for slaughter	1,967	2,458	2,876
Total	5,726	7,429	8,498
All other markets	([5])	0	0
Total exports	5,726	7,429	8,498
Total shipments	29,339	31,453	33,022
End-of-period inventories	14,672	14,623	14,675
		Ratios and shares (*percent*)	
Share of total quantity of shipments:			
Internal consumption	0.0	0.0	0.0
Home market	80.5	76.4	74.3
Exports to--			
The United States:			
Feeder swine	12.8	15.8	17.0
Swine for slaughter	6.7	7.8	8.7
Total	19.5	23.6	25.7
All other markets	0.1	0.0	0.0
All export markets	19.5	23.6	25.7

[1] Breeding stock as of January 1 of each year; figure for January 1, 2005 is 1,647.
[2] Canadian pig crop (pigs born).
[3] Total of the number of pigs born during each quarter that were either on hand at the end of the quarter or had been sold.
[4] Slaughter plus deaths and condemnations.
[5] Less than 500 head.

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

Source: Compiled from "Hog Statistics, Statistics Canada, 2005, vol. 4, no. 1," report supplied by Statistics Canada; export data compiled from official Commerce statistics.

Table VII-2
Live swine: Canadian inventories, by province, as of January 1, 2002-04

Province	2002	2003	2004
		(1,000 head)	
Quebec	4,291	4,280	4,250
Ontario	3,525	3,661	3,670
Manitoba	2,688	2,825	2,852
Alberta	2,125	2,140	2,050
Saskatchewan	1,180	1,230	1,265
Atlantic	390	374	366
British Columbia	168	162	170
Total	14,367	14,672	14,623

Note.--The Atlantic region consists of the provinces of New Brunswick, New Foundland and Labrador, Nova Scotia, and Prince Edward Island; per telephone conversation with Canadian embassy on March 24, 2005.

Source: Statistics Canada (Hog Statistics, 2005, vol. 4, no. 1, Catalogue No. 23-010-XIE, tables 1,2 & 3).

Respondents have alleged that the low concentration of Canada's swine industry, coupled with the Canadian climate, provides several comparative advantages when it comes to the production of live swine. They claim that the wide distribution of farms has a large effect on the overall health of swine herds, including the spread of infectious diseases like PRRS. They also contend that the climate, most importantly the relatively cool Canadian summers, allegedly makes breeding herds more efficient when compared to those in the United States, and that pig producers in Canada have to cope with comparatively fewer seasonal infertility problems brought on by late summer heat stress; relatively cool weather also allegedly allows farmers to heavily feed their animals and bring them to market sooner. Petitioners dispute the validity of these claims, arguing that it is the age of a facility that dictates sow productivity,[5] and that a study by GREMIP (Canada) indicates that approximately 80 percent of swine herds in Canada are affected with PRRS, whereas the USDA estimates that 59 percent of swine herds in the United States are infected.[6] In any event, the net effect is that Canadian sows have outperformed their U.S. counterparts in terms of pigs per litter and pigs per breeding animal per year.

Canada contends with the same types of environmental concerns regarding production and facility expansion that the United States does, especially with regards to manure and water quality. Similar to the United States, the regulations and restrictions governing producers are mainly enacted by provincial and municipal governments, and vary across them. According to the Ontario Ministry of Agriculture, Food and Rural Affairs, Canadian producers already pay more than U.S. producers for manure treatment.[7] Meanwhile, Manitoba generally appears to be the least restrictive of intensive

[5] Petitioner's prehearing brief, p. 32.

[6] Petitioners' posthearing brief, answers to questions by the Commission, p. 29.

[7] "World Hog Production: Constrained by Environmental Concerns?", ERS, USDA, Agricultural Outlook, March 1998.

livestock operations.[8] Respondents indicated that Canada does not have the anti-corporate measures prohibiting large expansion that many U.S. states have in place. Two laws mentioned in the hearing pertaining to these restrictions were I-300 in Nebraska and Amendment E in South Dakota, both of which prohibit out-of-state investment in hog production facilities.[9]

As of January 1, 2005, Canada had a swine inventory of 14.7 million pigs.[10] This was an increase of 0.4 percent over the number from a year before, and a 2.1 percent increase from January 1, 2002. Moreover, Canada's breeding stock as a whole increased 8.9 percent from January 1, 2002 to January 1, 2005, with a beginning sow inventory of 1.6 million head in 2005, up 4.8 percent from 2003.[11] This rise in breeding stock led to 36 million pigs born in 2004, an increase of 11.4 percent from 2002.[12] Over the period of investigation, production of live swine in Canada increased 11.4 percent while the number of hogs slaughtered rose 3.3 percent.[13] These numbers appear in line with reports that production is outstripping slaughter capacity in Canada, creating an additional impetus for export.[14] However, capacity is set to expand in the domestic Canadian market. ***. Table VII-3 presents the number of hogs slaughtered in federally inspected facilities in Canada from 2002 to 2004.

Table VII-3
Live swine: Number of hogs slaughtered in Federally inspected establishments in Canada, 2002-04

Item	Calendar year		
	2002	2003	2004
	Number of animals		
Hogs slaughtered	20,802,925	21,185,447	21,744,000

Source: 2004 data: Agriculture and Agri-Food Canada, Hog Statistics at a Glance, for the week ending December 25, 2004 and January 1, 2005 combined found at http://www.agr.gc.ca/misb/aisd/redmeat/weeklyhogsupplycalendar.htm. 2002-03 data: Agriculture and Agri-Food Canada, 2003 Annual Livestock and Meat Report, found at http://www.agr.gc.ca/misb/aisd/redmeat/03tabl27.xls.

Canadian exports in 2004 reached a record 8.6 million head, with 8.5 million going to the United States. This was a 48- and 14-percent increase from the exports to the United States for 2002 and 2003, respectively.[15] In 2004, subject U.S. imports from Canada accounted for *** percent by head, and *** percent by weight of the total U.S. market. Increases in exports to the United States were seen for weanlings/feeder pigs as well as for hogs for immediate slaughter, with increases of 51 and 43 percent,

[8] "A Review of Selected Jurisdictions and Their Approach to Regulating Intensive Farming Operations", Ontario Ministry of Agriculture and Food, http://www.gov.on.ca/OMAFRA/english/agops/otherregs2.htm, retrieved March 9, 2005.

[9] Hearing transcript, p. 275 (Becker), p. 276 (McCullogh).

[10] The Daily, Statistics Canada, Thursday, February 17, 2005.

[11] USDA Foreign Agricultural Service GAIN REPORT, "Canada Livestock and Products Semi-Annual 2005," Report Number: #CA 5004, January 31, 2005.

[12] Hog Statistics, Statistics Canada, 2005, vol. 4, no. 1.

[13] Ibid.

[14] Friesen, Ron, "Hog Producers Say US Report Proves They're Not Subsidized," agcanada.com, December 9, 2004.

[15] The Daily, Statistics Canada, Thursday, February 17, 2005.

respectively, from 2002 to 2005.[16] Weanlings and feeder pigs accounted for 67 percent of total live swine exports to the United States in 2004.[17] Exports surged towards the end of 2004 when workers at Quality Meat Packers in Toronto went on strike, resulting in an additional 20,000 head per week being exported live for all of November 2004.[18] The strike ended and the plant restarted operations during the first week of December.

The decline of the dollar may have an effect on the Canadian live swine industry, especially on farrowing units, which price their output in U.S. dollars while many of their inputs are priced in Canadian dollars.[19] A declining dollar means less returns for Canadian farmers, and could curtail expansion or willingness to export to the United States. Changes within the live swine market are further discussed in the questionnaire responses of Canadian producers. Paramount among these is the contention that increased U.S. imports of Canadian weanlings are a result of U.S. demand for healthy animals and the imbalance of supply caused by the U.S. industry's focus on live swine finishing.

In response to a question in the Canadian producers' questionnaire, seven firms replied "Yes" when asked if they or a related firm has the capability or intention to produce live swine inside the United States. Sixteen firms said "Yes" to having plans to import live swine into the United States. Only one foreign producer, ***, reported that a U.S. firm has ownership interests in its facilities, and stated that it replaced U.S. farrowing capacity, citing the decision of the U.S. owners to focus their domestic operations on finishing pigs.

Three questionnaire respondents indicated plans to expand production capacity of live swine in Canada, referring to the purchase of additional sows, farrowing facilities, and finishing capacity. Sales of live swine dominated the overall total sales of nearly all the responding firms and farms as they accounted for over 50 percent of all sales for 23 firms and over 95 percent for 18. Only five firms used the same acreage, equipment, or facilities used for live swine in their production of other products, mostly corn and soybeans used as feed for the pigs themselves.

Table VII-4 presents the number of responding Canadian firms who describe themselves as falling within each of the listed categories of operations.

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[16] USDA Foreign Agricultural Service GAIN REPORT, Canada Livestock and Products Semi-Annual 2005, Report Number CA 5004, January 31, 2005.

[17] Bridson, Randy, "Pig imports swell as U.S., Canada 'integrate'," farmweek.ilfb.org, January 5, 2005, retrieved January 28, 2005.

[18] USDA Foreign Agricultural Service GAIN REPORT, Canada Livestock and Products Semi-Annual 2005, Report Number CA 5004, January 31, 2005.

[19] Informa Economics, Inc., "Hog & Pork Update, HP04-15," December 29, 2004, p. 6.

Table VII-4
Live swine: Responding Canadian producers, by type of firm, 2002-04

Item	2002	2003	2004
	Number of firms		
Swine farrowing	4	4	4
Swine nursery	4	4	5
Swine feeder/finisher	4	4	2
Farrow-to-finish	8	8	8
Importer/broker/distributor	14	14	15
Packer	1	1	1
Other	3	4	4

Note.--Several firms defined themselves using more than one of the categories.

Source: Compiled from data submitted in response to Commission questionnaires.

Seven questionnaire respondents said that they had experienced a shift in their production stages; however, it is apparent from the table above that such a shift was not dramatic, as their self-descriptions remained constant over the time period. What six of those firms described was an increased efficiency in other production stages, but not enough to change their main specialization. Sow efficiencies, breeding stocks, and finishing capacity were the stages mentioned. The variations in skill level associated with each production system discussed in Part I of this report may help to explain why more firms have not shifted their production stages.

Table VII-5 presents the number of responding Canadian firms that fell into various health categories with regards to PRRS at all stages of production for the years 2002 to 2004.

Table VII-5
Live swine: Responding Canadian firms' PRRS status, 2002-04

	2002	2003	2004
PRRS-negative herd	11	11	12
PRRS-positive herd, no outbreaks	7	7	8
PRRS-positive herd, with outbreak	0	0	3

Source: Compiled from data submitted in response to Commission questionnaires.

Despite the relatively few responses, the data appear to confirm what was mentioned above regarding pig health in Canada, especially as it relates to PRRS. The low number of outbreaks compared to those of reporting U.S. producers may be indicative of a lower-virulence strain of the disease, making it much more manageable. All the reporting firms that had PRRS-positive herds, but no outbreak, reported minimal costs due to the weak strains their herds had. The three firms that did experience outbreaks had a range of costs resulting from early mortality and sow abortions from $1,950 to $52,000. Furthermore, three firms replied that they had implemented changes to their operations to reduce the incidence or impact of PRRS. The precautions taken included testing, vaccinations, installation of an on-

farm truck wash, and the construction of a quarantine barn. Costs estimates ran from $6,000 per year for testing to $90,000 per year for all the improvements listed above.

Four Canadian producers reported that they experienced a shift from Canadian to U.S. customers from 2002 to 2004, and nine Canadian firms responded "Yes" to increasing their sow inventories. All explained the respective shift and expansion as a result of the increased U.S. demand for weanlings and feeder pigs. Vertical integration within the U.S. industry has reduced the number of independent farmers, and the total U.S. breeding stock has decreased by 1 percent between December 2002 and December 2004.[20] Reportedly, U.S. packers are no longer responding to seasonal changes in supply and instead are pursuing economies of scale by operating at full capacity year-round.[21, 22] Firms cited the increased incentives, such as floor prices of $28 to $32, that U.S. packers are providing and the benefit of having an essentially farrow-to-finish production operation without the capital cost of building barns. These close cross-border links support the notion of a continually integrating market for the United States and Canada. This is reflected in the fact that 25 out of 28 Canadian firms said that there was a single North American market for live swine.

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories are not available because of the nature of the importation and distribution process. Live swine for immediate slaughter are primarily imported/purchased by meat packers. Once producers raise hogs to the desirable slaughter weight and body fat composition, the hogs remain at peak weight and body fat composition for only a short time. There is no economic incentive to keep inventories of slaughter hogs. Live swine that enter the United States at younger stages, e.g., weanlings, are imported/purchased by U.S. finishers who feed them until they grow to full slaughter weight.

BROKERS/DISTRIBUTORS/IMPORTERS' IMPORTS SINCE DECEMBER 31, 2004

Brokers/distributors/importers were asked whether they imported or arranged for the importation of live swine from Canada for delivery after December 31, 2004. Seventeen of the responding firms indicated that they had arranged for imports on a contractual basis with U.S. firms. Quantities of swine ranged from 100 per day and 7,000 per week to 400 head for the entire month of April. The typical response was that orders were based on weekly contracts that were rarely specified more than two weeks in advance. A good example of this contractual volatility is *** which imported 2,700 live swine for the week of January 3-7, but only 195 for the week of January 18-21. With regard to imports for 2005, a recent USDA publication stated that "projected increased hog slaughter capacity in Canada and little to no increase in the total pig crop is expected to result in a small decline in the level of live Canadian hog exports to the United States."[23]

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[20] Quarterly Hogs and Pigs, National Agricultural Statistics Service, USDA, December 2004.

[21] Friesen, Ron, "Hog Producers Say US Report Proves They're Not Subsidized," agcanada.com, December 9, 2004.

[22] Reportedly, U.S. finishing capacity outstripped the U.S. pig crop by 9.9 percent in 2004. Prehearing brief of the Manitoba Pork Council, exh. 14.

[23] USDA Foreign Agricultural Service GAIN REPORT, Canada Livestock and Products Semi-Annual 2005, Report Number CA 5004, January 31, 2005.

COUNTERVAILING AND/OR ANTIDUMPING DUTY ORDERS IN THIRD COUNTRIES

None of the Canadian questionnaire respondents cited any countervailing or antidumping duty orders on live swine from Canada in any country other than the United States, and there are no known such investigations in any country other than the current antidumping investigation in the United States.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–438 (Final) and 731–TA–1076 (Final)]

Live Swine From Canada

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–438 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1076 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value and allegedly subsidized imports from Canada of live swine, provided for in subheadings 0103.91.00 and 0103.92.00 of the Harmonized Tariff Schedule of the United States (HTS).[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: Effective October 20, 2004.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://*

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as all live swine from Canada except breeding swine. Live swine are defined as four-legged, monogastric (single-chambered stomach), and litter-bearing (litters typically range from 8 to 12 animals), of the species *sus scrofa domesticus*. This merchandise is currently provided for in HTS statistical reporting numbers 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, and 0103.92.0090.

www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that live swine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on March 5, 2004, by the National Pork Producers Council and numerous state associations and individual pork producers.

Although the Department of Commerce has preliminarily determined that imports of live swine from Canada are not being and are not likely to be subsidized, for purposes of efficiency the Commission hereby waives rule 207.21(b)[2] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on February 22, 2005, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 8, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 25, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 2, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 1, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 15, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 15, 2005. On March 30, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 1, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: November 12, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–25496 Filed 11–16–04; 8:45 am]

BILLING CODE 7020–02–P

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

Secretary for Economic Development David A. Sampson. E-mail submissions must be addressed to *saci@eda.doc.gov* and should include all nomination materials (including attachments) in a single transmission. The Department strongly encourages applicants to submit nominations by facsimile or e-mail. Nominations sent by postal mail may be substantially delayed in delivery, since all postal mail sent to the Department is subject to extensive security screening.

FOR FURTHER INFORMATION CONTACT: The Office of Chief Counsel, Economic Development Administration, Department of Commerce, Room 7005, 1401 Constitution Avenue, NW., Washington DC 20230, telephone (202) 482–4687.

SUPPLEMENTARY INFORMATION: On February 3, 2005, the Secretary of Commerce (the "Secretary") and the Secretary of Housing and Urban Development jointly announced the President's Strengthening America's Communities Initiative (the "Initiative"). The Initiative proposes to transfer and consolidate 18 Federal economic and community development programs from the Departments of Agriculture, Commerce, Health and Human Services, Housing and Urban Development and Treasury within the Department, ultimately comprising a $3.71 billion unified grant program.

On February 9, 2005, the President's Domestic Policy Council requested the Secretary form the Committee. The objectives and duties of the Committee will be to provide advice and recommendations to the Secretary, and to develop a comprehensive written report of policy parameters to assist in implementing the Initiative, including advising on its legislation, regulations and other guidance. The Committee's report will encompass all aspects of the envisioned Initiative, including policy findings and declarations, organizational structure, eligibility, program delivery, monitoring and performance measures. The Committee is expected to deliver its report to the Secretary by May 31, 2005. Thereafter, the Committee may be asked to advise the Secretary on additional issues relating to the Initiative.

The Committee is intended to have a balanced membership from diverse backgrounds and geographical regions, including the private sector, state, local and tribal government officials, community-based organizations, academia and the research community. Nominees should possess an extensive knowledge of, and background in, the fields of rural or urban economic or community development. Nominees should also possess recognized development policy expertise and excellent leadership, communication and organizational skills. The evaluation criteria for selecting members and the specific instructions for submitting nominations contained in the March 1, 2005 notice shall continue to apply. Additional information on the Initiative is available on the Department's Web site at *http://www.commerce.gov/SACI/index.htm.*

Privacy Act

Section 301 of title 5 United States Code and 15 CFR part 4, subpart B authorize and govern collection of this information. The primary use of this information is to allow officials of the Department and its operating units to review applications and to conduct vetting of applicants to make decisions concerning the nomination or re-nomination of candidates for membership on the Committee. Records may be disclosed under the following routine use circumstances: (1) To any Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring, or retention of an individual; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or benefit. (2) To any Federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting any violation or potential violation of law or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or contract, rule, regulation, or order, to protect the interests of the Department. (3) To any Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or any other benefit of the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decisions on the matter. (4) To a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record. (5) To the Department of Justice in connection with determining whether disclosure is of the record is required under the Freedom of Information Act.

Collection of this information, including your Social Security number is voluntary but failure to furnish it will result in your application not being considered. Collection of your Social Security number is authorized under Executive Order No. 9397. The Department will use this number to distinguish you from other members of the public who may have the same or similar name.

Dated: March 8, 2005.

Theodore W. Kassinger,

Deputy Secretary of Commerce.

[FR Doc. 05–4905 Filed 3–10–05; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–850]

Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada

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

SUMMARY: On October 20, 2004, the Department of Commerce published a preliminary determination in the antidumping duty investigation of live swine from Canada. We gave interested parties an opportunity to comment on the preliminary determination. Based upon the results of verification and our analysis of the comments received, we have made certain changes. We continue to find that live swine from Canada were sold in the United States below normal value during the period of investigation. The final weighted-average dumping margins are listed below in the section entitled "Continuation of Suspension of Liquidation."

DATES: *Effective Date:* March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Andrew Smith, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1503 or (202) 482–1276, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 2004, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary determination in its investigation of live swine from Canada. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination:*

Live Swine From Canada, 69 FR 61639 (October 20, 2004) (*"Preliminary Determination"*).

Since the *Preliminary Determination*, the following events have occurred:

On October 25, 2004, Excel requested that the Department reconsider its preliminary decision to rescind its selection of Excel as a mandatory respondent in this investigation.

On November 3, 2004, the Department decided to verify Excel's questionnaire responses.

On November 29, 2004, Premium Pork Canada, Inc. ("Premium Pork") withdrew from this investigation.

In November and December 2004, and January 2005, we conducted verifications of the sales and cost of production ("COP") questionnaire responses submitted by Ontario Pork Producers' Marketing Board ("Ontario Pork"), Hytek, Inc. ("Hytek"), and Excel Swine Services, Inc. ("Excel") at each company's headquarters and at certain farm locations. We issued verification reports in January 2005.

We received case and rebuttal briefs from the Illinois Pork Producers Association, the Indiana Pork Advocacy Coalition, the Iowa Pork Producers Association, the Minnesota Pork Producers Association, the Missouri Pork Association, the Nebraska Pork Producers Association, Inc., the North Carolina Pork Council, Inc., the Ohio Pork Producers Council, and 119 individual producers of live swine [1] (collectively, hereinafter, "the petitioners"), Excel, Hytek, Ontario Pork, and Baxter Transport, Ltd., J. Quintaine & Son, Ltd., and Zantingh Swine Inc.

[1] Alan Christensen, Alicia Prill-Adams, Aulis Farms, Baarsch Pork Farm, Inc., Bailey Terra Nova Farms, Bartling Brothers Inc., Belstra Milling Co. Inc., Borend Bros. Hog Farm LLC, Bill Tempel, BK Pork Inc., Blue Wing Farm, Bomhorst Bros, Brandt Bros., Bredehoeft Farms, Inc., Bruce Samson, Bryant Premium Pork LLC, Buhl's Ridge View Farm, Charles Rossow, Cheney Farms, Chion Hog Farm, Circle K Family Farms LLC, Cleland Farm, Clougherty Packing Company, Coharie Hog Farm, County Line Swine Inc., Craig Mensick, Daniel J. Pung, David Hansen, De Young Hog Farm LLC, Dean Schrag, Dean Vantiger, Dennis Geinger, Double "M" Inc., Dykhuis Farms, Inc., E & L Harrison Enterprises, Inc., Eric Lockhart, Ernest Smith, F & D Farms, Fisher Hog Farm, Fitzke Farm, Fultz Farms, Gary and Warren Oberdick Partnership, Geneseo Pork, Inc., GLM Farms, Greenway Farms, H & H Feed and Grain, H & K Enterprises, LTD, Ham Hill Farms, Inc., Harrison Creek Farm, Harty Hog Farms, Heartland Pork LLC, Heritage Swine, High Lean Pork, Inc., Hilman Schroeder, Holden Farms Inc., Huron Pork, LLC, Hurst AgriQuest, J D Howerton and Sons, J. L. Ledger, Inc., Jack Rodibaugh & Sons, Inc., JC Howard Farms, Josina Farms, Inc., Jim Kemper, Jorgensen Pork, Keith Berry Farms, Kellogg Farms, Kendale Farm, Kessler Farms, L.L Murphrey Company, Lange Farms LLC, Larson Bros Dairy Inc., Levelvue Pork Shop, Long Ranch Inc., Lou Stoller & Sons, Inc., Luckey Farm, Mac-O-Cheek, Inc., Martin Gingerich, Marvin Larrick, Max Schmidt, Maxwell Foods, Inc., Mckenzie-Reed Farms, Meier Family Farms Inc., MFA Inc., Michael Farm, Mike Bayes, Mike Wehler, Murphy Brown LLC, Ned Black and Sons, Ness Farms, Next Generation Pork, Inc., Noecker Farms, Oaklane Colony, Orangeburg Foods, Oregon Pork, Pitstick Pork Farms Inc., Prairie Lake Farms, Inc., Premium Standard Farms, Inc., Prestage Farms, Inc., R Hogs LLC, Rehmeier Farms, Rodger Schamberg, Scott W. Tapper, Sheets Farm, Smith-Healy Farms, Inc., Square Butte Farm, Steven A. Gay, Sunnycrest Inc., Trails End Far, Inc., TruLine Genetics, Two Mile Pork, Valley View Farm, Van Dell Farms, Inc., Vollmer Farms, Walters Farms LLP, Watertown Weaners, Inc., Wen Mar Farms, Inc., William Walter Farm, Willow Ridge Farm LLC, Wolf Farms, Wondraful Pork Systems, Inc., Wooden Purebred Swine Farms, Woodlawn Farms, and Zimmerman Hog Farms.

Scope of Investigation

The merchandise covered by this investigation is all live swine ("swine" or "subject merchandise") from Canada except breeding stock swine. Live swine are defined as four-legged, monogastric (single-chambered stomach), litter-bearing (litters typically range from 8 to 12 animals), of the species *sus scrofa domesticus*. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (*"HTSUS"*) subheadings 0103.91.00 and 0103.92.00.

Specifically excluded from this scope are breeding stock, including U.S. Department of Agriculture ("USDA") certified purebred breeding stock and all other breeding stock. The designation of the product as "breeding stock" indicates the acceptability of the product for use as breeding live swine. This designation is presumed to indicate that these products are being used for breeding stock only. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than this application, end-use certification for the importation of such products may be required.

Although the *HTSUS* headings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In the *Notice of Initiation of Antidumping Duty Investigation: Live Swine from Canada*, 69 FR 19815 (April 14, 2004) (*"Initiation Notice"*), we invited comments on the scope of this proceeding. On May 4, 2004, we received a request from the GOC to amend the scope of this investigation and the companion countervailing duty ("CVD") investigation. Specifically, the GOC requested that the scope be amended to exclude hybrid breeding stock. According to the GOC, domestic producers use hybrid breeding stock instead of purebred stock to strengthen their strains of swine. The GOC stated that no evidence was provided of injury, or threat of injury, to the domestic live swine industry from the importation of hybrid breeding stock. Furthermore, the GOC noted that the petition excluded USDA certified purebred breeding swine from the scope of the above-mentioned investigations. The GOC argued that the documentation which accompanies imported hybrid breeding swine makes it easy to distinguish hybrid breeding swine from other live swine.

On August 4, 2004, the petitioners submitted a response to the GOC's scope exclusion request and proposed modified scope language. The petitioners stated they did not oppose the GOC's request to exclude hybrid breeding stock, but were concerned about the potential for circumvention of any CVD or antidumping duty ("AD") order on live swine from Canada through non-breeding swine entering the domestic market as breeding stock. Thus, the petitioners proposed modified scope language that would require end-use certification if the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than this application. Moreover, on July 30, 2004, the petitioners submitted a request to the International Trade Commission ("ITC") to modify the *HTSUS* by adding a statistical breakout that would separately report imports of breeding animals other than purebred breeding animals, allowing the domestic industry to monitor the import trends of hybrid breeding stock.

On August 9, 2004, both the GOC and the respondent companies submitted comments to respond to the petitioners' proposed revised scope. Both the GOC and the respondent companies stated that they generally agreed with the petitioners' modified scope language, with the two following exceptions: (1) They contended that the petitioners' language setting forth the mechanics of any end use certification procedure was premature and unnecessary, and (2) they argued that the petitioners' language stating that "all products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope" was unnecessary because the physical description of the merchandise in scope remains determinative.

On August 12, 2004, the petitioners submitted a response to the August 9,

2004 comments from the GOC and the respondents. The petitioners reiterated their support for their proposed modification to the scope language. They argued that (1) their proposed language had been used before by the Department in other proceedings; (2) since U.S. importers bear the burden of paying the duties, the importers should be required to certify to the end use of the product; and (3) with the petitioners' concerns about circumvention, the "physical description" language provided an important clarification that all live swine except for the excluded products are included in the scope.

As further discussed in the August 16, 2004 memorandum entitled "*Scope Exclusion Request: Hybrid Breeding Stock*" (on file in the Department's Central Records Unit in Room B–099 of the main Department building ("CRU")), we preliminarily revised the scope in both the AD and companion CVD proceedings based on the above scope comments. *See Preliminary Determination*, 69 FR 61639, 61640–61641, and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Swine from Canada*, 69 FR 51800, 51801–51802 (August 23, 2004). No further scope comments were received from any party subsequent to these preliminary determination. Thus, we have adopted the revised scope from the *Preliminary Determination* for this final determination. The revised scope language is included in the "Scope of Investigation" section, above.

Period of Investigation

The period of investigation ("POI") is January 1, 2003, through December 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition on March 5, 2004.

Facts Otherwise Available

Section 776(a)(2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, a respondent (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of Section 782; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified.

Section 782(e) of the Act further provides that the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination but does not meet all the applicable requirements established by the Department if (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

Premium Pork responded to the Department's questionnaires and otherwise participated in this investigation until November 29, 2004, two weeks before Premium Pork's scheduled verification. On November 29, 2004, Premium Pork withdrew from this investigation because of its impending dissolution. *See* Premium Pork's November 29, 2004 withdrawal letter. Premium Pork's receivers stated that its companies would "not continue their current integrated operations" after its asset sales were completed. *Id.* The Department has not received any further communication from Premium Pork.

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g, Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil.*, 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) ("*SAA*").

In this case, Premium Pork ultimately failed to cooperate to the best of its ability because it failed to participate in verification. Therefore, the Department finds that in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004) and accompanying *Issues and Decision Memorandum* at Comment 22 (the Department applied total adverse facts available where the respondent withdrew from the investigation prior to verification) and *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total adverse facts available where the respondent failed to respond to the antidumping questionnaires).

As adverse facts available, we have assigned Premium Pork a margin of 18.87 percent, the highest price-to-price margin alleged in the petition, in accordance with section 776(b)(1). Section 776(b) of the Act notes that an adverse facts available rate may include reliance on information derived from: (1) The petition; (2) a final determination in the investigation; (3) any previous review; or (4) any other information placed on the record. Thus, the statute does not limit the specific sources from which the Department may obtain information for use as facts available. The *SAA* recognizes the importance of adverse facts available as an investigative tool in antidumping proceedings. The Department's potential use of adverse facts available provides the only incentive to foreign exporters and producers to respond to the Department's questionnaires. *See SAA* at 868.

Section 776(c) of the Act mandates that the Department, to the extent practicable, shall corroborate secondary information (such as petition data) using independent sources reasonably at its disposal. In accordance with the law, the Department, to the extent practicable, will examine the reliability and relevance of the information used.

To corroborate the margin assigned to Premium Pork, we compared the normal values and U.S. prices submitted by the petitioners, as amended by the Department in the April 7, 2004, *Initiation Checklist*, to data submitted by the respondents for whom we are calculating a margin. *See* March 4, 2004, memorandum, "Final Determination of Live Swine from Canada: Corroboration Memorandum." This comparison corroborates and supports the reliability of the selected margin.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22,

1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)). Therefore, we also examined whether any information on the record would discredit the selected rate as reasonable facts available for Premium Pork. No such information exists. In particular, there is no information that might lead to a conclusion that a different rate would be more appropriate.

Accordingly, we have assigned Premium Pork the rate of 18.87 percent as total adverse facts available. This is consistent with section 776(b) of the Act which states that adverse inferences may include reliance on information derived from the petition.

Fair Value Comparisons

We calculated constructed export price, export price, and normal value based on the same methodologies used in the *Preliminary Determination* and in our November 3, 2004, calculations [2] for Excel, with the following exceptions:

Ontario Pork

We used the sales databases submitted by Ontario Pork after verification, which include the minor corrections presented at verification. We revised Ontario Pork's advertising expenses. *See Decision Memorandum* at Comment 6. We did not include the U.S. direct selling expense that we included in the *Preliminary Determination*. *See Decision Memorandum* at Comment 7. We revised Ontario Pork's reported crossing fees based on information contained in Ontario Pork's verification exhibits. *See* Memorandum to File, "Ontario Pork Producers' Marketing Board Final Determination Calculation Memorandum," dated March 4, 2005.

Excel

We used the U.S. database submitted by Excel after verification in our margin calculations, which includes the minor corrections presented at verification. In addition, we disregarded sales of substandard merchandise. *See Decision Memorandum* at Comment 51. *See* Memorandum to File, "Excel Swine Service, Inc. Final Determination Calculation Memorandum," dated March 4, 2005.

Hytek

We used the databases submitted by Hytek after verification, which include the minor corrections presented at verification. For Hytek's U.S. sales, we accounted for an additional billing adjustment and direct selling expense which were presented as minor corrections at verification. In our product comparisons, we prevented matches between U.S. sales of isoweans and home market sales of spent boars. *See* Memorandum to File, "Hytek, Ltd. Final Determination Calculation Memorandum," dated March 4, 2005.

Cost of Production and Constructed Value

We calculated the cost of production ("COP") and constructed value ("CV") for Ontario Pork, Hytek, and Excel based on the same methodologies used in the *Preliminary Determination*, and in our November 3, 2004, calculations [3] for Excel, except for those changes noted in the Memorandum to Neal M. Halper, "Cost of Production and Constructed Value Adjustments for the Final Determination—Ontario Pork Producers' Marketing Board Cost Respondents," dated March 4, 2005; Memorandum to Neal M. Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—Excel Swine Services, Inc./Riverbend Colony of Hutterian Bretheren Trust, Rainbow Colony of Hutterian Bretheren Trust, and Big Boulder Creek Farms Ltd.," dated March 4, 2005; and Memorandum to Neal M. Halper, "Cost of Production and Constructed Value Adjustments for the Final Determination—Hytek Ltd.," dated March 4, 2005.

Home Market Sales Disregarded

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI were at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

With respect to Ontario Pork and Hytek, for certain products, more than 20 percent of the comparison market sales were at prices less than the COP and, thus, the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Verifications

As provided in section 782(i)(1) of the Act, we verified the information submitted by the respondents during November and December, 2004, and January, 2005. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the petitioners' and the respondents' case and rebuttal briefs are addressed in the March 4, 2005, *Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Live Swine from Canada* ("*Decision Memorandum*") which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues that the petitioners and the respondents have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in these investigations and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/summary/list.htm*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

[2] *See* Memorandum to File, "Export Price Calculation Memorandum for Excel Swine Services, Inc./Riverbend Colony Hutterian Brethren Trust, Rainbow Colony Hutterian Brethren Trust, and Big Boulder Creek Farms, Ltd.," dated November 3, 2004, and Memorandum to File, "Cost of Production and Constructed Value Calculation Memorandum—Excel Swine Services, Inc./Riverbend Colony Hutterian Brethren Trust, Rainbow Colony Hutterian Brethren Trust, and Big Boulder Creek Farms, Ltd.," dated November 3, 2004.

[3] *See* Memorandum to File, "Export Price Calculation Memorandum for Excel Swine Services, Inc./Riverbend Colony Hutterian Brethren Trust, Rainbow Colony Hutterian Brethren Trust, and Big Boulder Creek Farms, Ltd.," dated November 3, 2004, and Memorandum to File, "Cost of Production and Constructed Value Calculation Memorandum—Excel Swine Services, Inc./Riverbend Colony Hutterian Brethren Trust, Rainbow Colony Hutterian Brethren Trust, and Big Boulder Creek Farms, Ltd.," dated November 3, 2004.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all imports of subject merchandise from Canada, except merchandise produced and exported by Hytek, that are entered, or withdrawn from warehouse, for consumption on or after October 20, 2004, the date of publication of the *Preliminary Determination* in the **Federal Register**. The CBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. For Hytek, because its estimated weighted-average final dumping margin is *de minimis*, we are directing CBP to terminate suspension of liquidation of Hytek's entries and refund all bonds and cash deposits posted on subject merchandise produced by Hytek. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin
Ontario Pork Producers' Marketing Board.	12.68 percent.
Hytek, Inc	0.53 percent (*de minimis*).
Premium Pork Canada, Inc.	18.87 percent (AFA).
Excel Swine Services, Inc.	4.64 percent.
All Others	10.63 percent.[4]

[4] We excluded the *de minimis* margin and the margin based on adverse facts available from the calculation of the all-others rate. *See* Section 735(c)(5)(A) of the Act.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 4, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix

General Issues

Comment 1: Perishable Agricultural Products
Comment 2: Net Income Stabilization Account
Comment 3: Allocation of Total Production Costs

Company Specific Issues

Premium Pork

Comment 4: Premium Pork Withdrawal

Ontario Pork

Comment 5: Monthly Price-Averaging
Comment 6: Advertising Expenses
Comment 7: Bank Charges
Comment 8: Credit Expenses
Comment 9: Freight Expenses

Ontario Pork Farm A

Comment 10: Cost of Feed
Comment 11: Imputed Labor Costs
Comment 12: Cost of Breeding Stock
Comment 13: Denominator Used for the General and Administrative Expense Ratio
Comment 14: Breeding Stock Salvage Value
Comment 15: Sows Supplied by Affiliates
Comment 16: Hogs Used for Personal Consumption
Comment 17: Per-unit Finishing Costs Adjusted by the Feeders Sold
Comment 18: Farm A's Change in Inventory Values
Comment 19: Livestock Purchases in the Indirect Cost Allocation
Comment 20: Lease of Crop Land
Comment 21: Optional Inventory Adjustment
Comment 22: Additional Accrued Cost Items
Comment 23: G&A Expenses
Comment 24: Interest Rates

Ontario Pork Farm B

Comment 25: Affiliated Feed Company
Comment 26: Tile Drainage
Comment 27: Interest Income Earned on NISA and Risk Management Funding
Comment 28: Prepaid Feed Costs
Comment 29: Donated Hogs
Comment 30: Misallocated Costs
Comment 31: Reconciliation Error
Comment 32: Imputed Labor
Comment 33: Interest Expense for Loan
Comment 34: Interest Income

Ontario Pork Farm C

Comment 35: Claimed Offsets for Subsidies
Comment 36: Failure to Report all Feed Costs
Comment 37: Capitalized Feed Costs
Comment 38: Errors Revealed During Verification Should be Corrected
Comment 39: Proper Treatment of "Credit to Barn Quality" Account
Comment 40: G&A Expenses
Comment 41: Collapsing the Operations of Affiliated Suppliers

Ontario Pork Farm D

Comment 42: Costs Related to Transporting Hogs to the Farm
Comment 43: Vaccination Costs of Resold Isoweans
Comment 44: Cost of Feed Produced by the Partners
Comment 45: Price of Corn Set by the Partners for November and December 2003
Comment 46: Depreciation Cost
Comment 47: G&A Offset for Land Rental Income
Comment 48: Labor Allocation
Comment 49: G&A Expenses Related to Fines

Excel

Comment 50: Mandatory Respondent Status
Comment 51: Sales Exclusions
Comment 52: Fertilizer as a Credit to the Cost of Producing Live Swine

Excel Rainbow Colony

Comment 53: Production Quantity
Comment 54: Insurance Premiums
Comment 55: Accrued Labor Costs
Comment 56: Productive Assets Quantity
Comment 57: Disputed Fertilizer Purchases
Comment 58: Startup Adjustment

Excel Riverbend Colony

Comment 59: Foreign Exchange Expense
Comment 60: GST Audit Adjustment
Comment 61: Labor

Excel Big Boulder

Comment 62: Rental Income G&A Offset
Comment 63: Fiscal Year G&A and Financial Expense Ratios
Comment 64: Insurance and Donations

Hytek

Comment 65: CEP Profit
Comment 66: Further Manufacturing Costs
Comment 67: Certain Payments to Owners
Comment 68: Interest Income

[FR Doc. E5–1029 Filed 3–10–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: Effective Date: March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Steven Ryan, at (202)

482–5831 or (202) 482–0065, respectively; Import Administration, AD/CVD Operations, Office 4, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On August 24, 2004, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on silicon metal from Brazil. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004). The period of review is July 1, 2003, through June 30, 2004.

Extension of Time Limit for Preliminary Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. The preliminary results of this antidumping duty administrative review of silicon metal from Brazil are currently scheduled to be completed on April 2, 2005. However, the Department finds that it is not practicable to complete the preliminary results in this administrative review of silicon metal from Brazil within this time limit because additional time is needed to fully address issues relating to affiliation, treatment of value added taxes, reconciliation of costs to financial statements and the calculation of the total cost of manufacturing, as well as to conduct mandatory verifications of the questionnaire responses and supplemental questionnaire responses.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results of this review until August 1, 2005, which is the next business day after 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of this administrative review continues to be 120 days after the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: March 7, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–1027 Filed 3–10–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–851]

Final Negative Countervailing Duty Determination: Live Swine from Canada

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

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are not being provided to producers or exporters of live swine from Canada.

EFFECTIVE DATE: March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Melani Miller Harig, Stephen Cho, Daniel J. Alexy, and Marc Rivitz, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0116, (202) 482–3798, (202) 482–1540, and (202) 482–1382, respectively.

SUPPLEMENTARY INFORMATION:

Petitioners

The petitioners in this investigation are the Illinois Pork Producers Association, the Indiana Pork Advocacy Coalition, the Iowa Pork Producers Association, the Minnesota Pork Producers Association, the Missouri Pork Association, the Nebraska Pork Producers Association, Inc., the North Carolina Pork Council, Inc., the Ohio Pork Producers Council, and 119 individual producers of live swine[1] (collectively, "the petitioners").

[1] Alan Christensen, Alicia Prill-Adams, Aulis Farms, Baarsch Pork Farm, Inc., Bailey Terra Nova Farms, Bartling Brothers Inc., Belstra Milling Co. Inc., Berend Bros. Hog Farm LLC, Bill Tempel, BK Pork Inc., Blue Wing Farm, Bornhorst Bros, Brandt Bros., Bredehoeft Farms, Inc., Bruce Samson, Bryant Premium Pork LLC, Buhl's Ridge View Farm, Charles Rossow, Cheney Farms, Chinn Hog Farm, Circle K Family Farms LLC, Cleland Farm, Clougherty Packing Company, Coharie Hog Farm, County Line Swine Inc., Craig Mensick, Daniel J. Pung, David Hansen, De Young Hog Farm LLC, Dean Schrag, Dean Vantiger, Dennis Geinger, Double "M" Inc., Dykhuis Farms, Inc., E & L Harrison Enterprises, Inc., Erle Lockhart, Ernest Smith, F & D Farms, Fisher Hog Farm, Fitzke Farm, Fultz Farms, Gary and Warren Oberdiek Partnership, Geneseo Pork, Inc., GLM Farms, Greenway Farms, H & H Feed and Grain, H & K Enterprises, LTD, Ham Hill Farms, Inc., Harrison Creek Farm, Harty Hog Farms, Heartland Pork LLC, Heritage Swine, High Lean Pork, Inc., Hilman Schroeder, Holden Farms Inc., Huron Pork, LLC, Hurst AgriQuest, J D Howerton and Sons, J. L. Ledger, Inc., Jack Rodibaugh & Sons, Inc., JC Howard Farms, Jesina Farms, Inc., Jim Kemper, Jorgensen Pork, Keith Berry Farms, Kellogg Farms, Kendale Farm, Kessler Farms, L.L Murphrey Company, Lange Farms LLC, Larson Bros Dairy Inc., Levelvue Pork Shop, Long Ranch Inc., Lou Stoller & Sons, Inc., Luckey Farm, Mac-O-Cheek, Inc., Martin Gingerich, Marvin Larrick, Max Schmidt, Maxwell Foods, Inc., Mckenzie-Reed Farms, Meier Family Farms Inc., MFA Inc., Michael Farm, Mike Bayes, Mike Wehler, Murphy Brown LLC, Ned Black and Sons, Ness Farms, Next Generation Pork, Inc., Noecker Farms, Oaklane Colony, Orangeburg Foods, Oregon Pork, Pitstick Pork Farms Inc., Prairie Lake Farms, Inc., Premium Standard Farms, Inc., Prestage Farms, Inc., R Hogs LLC, Rehmeier Farms, Rodger Schamberg, Scott W. Tapper, Sheets Farm, Smith-Healy Farms, Inc., Square Butte Farm, Steven A. Gay, Sunnycrest Inc., Trails End Far, Inc., TruLine Genetics, Two Mile Pork, Valley View Farm, Van Dell Farms, Inc., Vollmer Farms, Walters Farms LLP, Watertown Weaners, Inc., Wen Mar Farms, Inc., William Walter Farm, Willow Ridge Farm LLC, Wolf Farms, Wondraful Pork Systems, Inc., Wooden Purebred Swine Farms, Woodlawn Farms, and Zimmerman Hog Farms.

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register** on August 23, 2004. *See Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Live Swine from Canada*, 69 FR 51800 (August 23, 2004) ("Preliminary Determination").

On September 9, 2004, the petitioners submitted comments on the upcoming verifications.

On September 14, 2004, the petitioners submitted arguments relating to certain requests made by the Government of Canada ("GOC") for business proprietary treatment in its questionnaire responses. The GOC filed a response to this submission on September 22, 2004.

On September 17 and 27, 2004, Sureleen–Albion Agra Inc. ("Sureleen")/Bujet Sow Group ("BSG") and Hytek Ltd. ("Hytek"), respectively, submitted new factual information and corrections to their previous responses. The GOC also submitted revised information from its questionnaire responses on October 5, 2004.

From September 27, 2004 through October 8, 2004, and October 18, 2004 through October 21, 2004, we conducted verification of the questionnaire responses submitted by the GOC; the Governments of Ontario, Manitoba, Saskatchewan, and Alberta; Sureleen/BSG; Hytek; Premium Pork Canada Inc.; Hart Feeds Limited; Elite Swine Inc./Maple Leaf Foods Inc.; Park View Colony Farms Ltd.; and Willow Creek

Colony Ltd. We also verified the information submitted by M & F Trading Inc., Maximum Swine Marketing, and Excel Swine Services, the three trading companies/cooperatives covered by this investigation, as part of the verification of the GOC and the provincial governments.

We received case briefs from the petitioners and the Government of Saskatchewan on January 7, 2005. The respondents (collectively) and the petitioners submitted rebuttal briefs on January 14, 2005. We held a hearing in this investigation on January 19, 2005. Public transcripts from this hearing are available in the Department of Commerce's ("Department") Central Records Unit in Room B–099 of the main Department building ("CRU").

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation, is calendar year 2003.

Scope of Investigation

The merchandise covered by this investigation is all live swine ("swine" or "subject merchandise") from Canada except breeding stock swine. Live swine are defined as four–legged, monogastric (single–chambered stomach), litter–bearing (litters typically range from 8 to 12 animals), of the species *sus scrofa domesticus*. This merchandise is currently classifiable under Harmonized *Tariff Schedule of the United States* ("*HTSUS*") subheadings 0103.91.00 and 0103.92.00.

Specifically excluded from this scope are breeding stock, including U.S. Department of Agriculture ("USDA") certified purebred breeding stock and all other breeding stock. The designation of the product as "breeding stock" indicates the acceptability of the product for use as breeding live swine. This designation is presumed to indicate that these products are being used for breeding stock only. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than this application, end–use certification for the importation of such products may be required.

Although the *HTSUS* headings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In the *Notice of Initiation of Countervailing Duty Investigation: Live Swine From Canada*, 69 FR 19818 (April 14, 2004), we invited comments on the scope of this proceeding. On May 4, 2004, we received a request from the GOC to amend the scope of this investigation and the companion antidumping duty ("AD") investigation. Specifically, the GOC requested that the scope be amended to exclude hybrid breeding stock. According to the GOC, domestic producers use hybrid breeding stock instead of purebred stock to strengthen their strains of swine. The GOC stated that no evidence was provided of injury, or threat of injury, to the domestic live swine industry from the importation of hybrid breeding stock. Furthermore, the GOC noted that the petition excluded USDA certified purebred breeding swine from the scope of the above–mentioned investigations. The GOC argued that the documentation which accompanies imported hybrid breeding swine makes it easy to distinguish hybrid breeding swine from other live swine.

On August 4, 2004, the petitioners submitted a response to the GOC's scope exclusion request and proposed modified scope language. The petitioners stated they did not oppose the GOC's request to exclude hybrid breeding stock, but were concerned about the potential for circumvention of any AD or countervailing duty ("CVD") order on live swine from Canada through non–breeding swine entering the domestic market as breeding stock. Thus, the petitioners proposed modified scope language that would require end–use certification if the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than this application. Moreover, on July 30, 2004, the petitioners submitted a request to the International Trade Commission ("ITC") to modify the *HTSUS* by adding a statistical breakout that would separately report imports of breeding animals other than purebred breeding animals, allowing the domestic industry to monitor the import trends of hybrid breeding stock.

On August 9, 2004, both the GOC and the respondent companies submitted comments to respond to the petitioners' proposed revised scope. Both the GOC and the respondent companies stated that they generally agreed with the petitioners' modified scope language, with the two following exceptions: 1) they contended that the petitioners' language setting forth the mechanics of any end use certification procedure was premature and unnecessary, and 2) they argued that the petitioners' language stating that "all products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope" was unnecessary because the physical description of the merchandise in scope remains determinative.

On August 12, 2004, the petitioners submitted a response to the August 9, 2004 comments from the GOC and the respondents. The petitioners reiterated their support for their proposed modification to the scope language. They argued that 1) their proposed language had been used before by the Department in other proceedings; 2) since U.S. importers bear the burden of paying the duties, the importers should be required to certify to the end use of the product; and 3) with the petitioners' concerns about circumvention, the "physical description" language provided an important clarification that all live swine except for the excluded products are included in the scope.

As further discussed in the August 16, 2004 memorandum entitled "*Scope Exclusion Request: Hybrid Breeding Stock*" (on file in the Department's CRU), we preliminarily revised the scope in both the CVD and companion AD proceedings based on the above scope comments. *See Preliminary Determination*, 69 FR 81800, 51801–51802, and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Swine from Canada*, 69 FR 61639, 61640–61641 (October 20, 2004). No further scope comments were received from any party subsequent to these preliminary determinations. Thus, we have adopted the revised scope from the *Preliminary Determination* for this final determination. The revised scope language is included in the "Scope of Investigation" section, above.

Injury Test

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 ("the Act"), the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On May 10, 2004, the ITC transmitted to the Department its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Canada of the subject merchandise. *See Live Swine From Canada*, 69 FR 26884 (May 14, 2004).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the March 4, 2005 "Issues and Decision Memorandum" from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration ("*Decision Memorandum*"), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/ under the heading "Canada." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In the *Preliminary Determination*, the total net countervailable subsidy rate was de minimis and, therefore, we did not suspend liquidation. For the final determination, because the rate remains *de minimis*, we are not directing U.S. Customs and Border Protection to suspend liquidation of live swine from Canada.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 4, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Specificity
Comment 2: Green Box Claims
Comment 3: Agricultural Income Disaster Assistance Program Recurring vs. Nonrecurring
Comment 4: Quebec Farm Income Stabilization Insurance/Agricultural Revenue Stabilization Insurance Program
Comment 5: Saskatchewan Short–Term Hog Loan Program
Comment 6: Saskatchewan Livestock and Horticultural Facilities Incentives Program

[FR Doc. E5–1030 Filed 3–10–05; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 970424097–5061–08]

Market Development Cooperator Program (MDCP)

AGENCY: International Trade Administration (ITA), Department of Commerce.

ACTION: Notice and request for applications.

SUMMARY: ITA is soliciting U.S. export promotion projects to be conducted by eligible entities for periods of up to three years. Project award periods normally begin between October 1, 2005 and January 1, 2006, but may begin as late as April 1, 2006. MDCP awards help to underwrite the start-up costs of new export ventures that export multipliers are often reluctant to undertake without Federal Government support. MDCP aims to develop, maintain and expand foreign markets for non-agricultural goods and services produced in the United States.

DATES: Proposals must be received by ITA no later than 5 p.m. EST, April 25, 2005. A public meeting to discuss the competition will be held on March 18, 2005, at 2 p.m. in Room 6059 at the address indicated below.

ADDRESSES: Proposals must be submitted to ITA, U.S. Department of Commerce, HCHB 3215; Washington, DC 20230, or via e-mail to *MDCPMail@ita.doc.gov*. The full funding opportunity announcement and the application kit for this request for applications are available at *http://www.export.gov/mdcp*, or by contacting Brad Hess at 202–482–2969.

FOR FURTHER INFORMATION CONTACT: Interested parties who are unable to access information via Internet or who have questions may contact Mr. Brad Hess by mail (see **ADDRESSES**), by phone at 202–482–2969, by fax at 202–482–4462, or via Internet at *Brad_Hess@ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access: The full funding opportunity announcement for MDCP is available at *http://www.export.gov/mdcp*.

Funding Availability: Approximately $2,000,000 will be available through this announcement for fiscal year 2005. Awards are limited to $400,000 each. ITA anticipates making five to nine awards, depending on the amounts requested and the availability of funds.

Statutory Authority: 15 U.S.C. 4723.

CFDA: 11.112, Market Development Cooperator Program.

Eligibility: Trade associations, state departments of trade and their regional associations, and non-profit industry organizations, including export multiplier organizations such as World Trade Centers, centers for international trade development and small business development centers are eligible to apply for an MDCP award.

Cost Sharing Requirements: Two dollars for every federal dollar. The first dollar must be cash. The rest of the match may be cash or in kind.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of federal programs."

Evaluation and Selection Procedures: After receiving the applications, ITA will screen each one to determine the applicant's eligibility to receive an award. After receiving all applications, a selection panel composed of ITA managers will review the applications using the evaluation criteria below, score them, and forward a ranked funding recommendation to the Assistant Secretary for Manufacturing and Services. The Assistant Secretary makes the final selection of award winners, justifying any deviation from the selection panel's ranked recommendation.

Evaluation Criteria: The selection panel reviews each eligible application based on five evaluation criteria. The evaluation criteria scores assigned by the panel determine which applications are recommended for funding. The evaluation criteria are listed below.

(1) Export Success Potential (20%). This is the potential of the project to generate export success stories and/or export initiatives in both the short-term and medium-term.

(2) Performance Measures (20%). Applicants must provide quantifiable estimates of how the project will increase or enhance the U.S. industry's export presence in the foreign market(s).

2. Inventory of Water Resources.
3. BMPs for Agricultural Contractors.
4. BMPs for Urban Contractors.
5. BMP Plan Implementation.
6. BMP Exemption Justification.

Reclamation will evaluate Plans based on these Criteria. A copy of these Plans will be available for review at Reclamation's Mid-Pacific Regional Office located in Sacramento, California, and the local area office.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that Reclamation withhold their home address from public disclosure, and we will honor such request to the extent allowable by law. There also may be circumstances in which Reclamation would elect to withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public disclosure in their entirety. If you wish to review a copy of these Plans, please contact Ms. Barbre to find the office nearest you.

Dated: February 28, 2005.

Donna E. Tegelman,

Regional Resources Manager, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 05–5496 Filed 3–18–05; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–352]

Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with the 2004 ATPA report.

DATES: *Effective Date:* March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Joanne Guth (202–205–3264 or *joanne.guth@usitc.gov*), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*).

Background: Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit annual reports to the Congress regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on domestic industries affected by the Act; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Notice of institution of the investigation and the schedule for such reports under section 206 of ATPA was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The eleventh report, covering calendar year 2004, is to be submitted by September 30, 2005.

Written Submissions: The Commission does not plan to hold a public hearing in connection with the preparation of this eleventh report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on June 10, 2005. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information (CBI) must be deleted (see the following paragraph for further information regarding CBI). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages clearly be marked as to whether they are the "confidential" or "nonconfidential" version, and that the CBI be clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this investigation. Accordingly, any CBI received by the Commission in this investigation will not be published in a manner that would reveal the operations of the firm supplying the information. The report will be made available to the public on the Commission's Web site.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: March 15, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 05–5464 Filed 3–18–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–438 (Final)]

Live Swine From Canada

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On March 11, 2005, the Department of Commerce published notice in the **Federal Register** of a negative final determination of

subsidies in connection with the subject investigation (70 FR 12186). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning live swine from Canada (investigation No. 701–TA–438 (Final)) is terminated.

EFFECTIVE DATE: March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov)*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

Issued: March 15, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–5465 Filed 3–18–05; 8:45 am]

BILLING CODE 7020–02–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 05–04]

Notice of Quarterly Report

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 612(b) of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D), the Millennium Challenge Corporation is making its first quarterly report available to the public. The following report covers the quarter beginning October 1, 2004 and ending December 31, 2004.

MILLENNIUM CHALLENGE CORPORATION

[Quarterly report for the period October 1, 2004 through December 31, 2004]

	Pending actions	Undisbursed obligations	Expenditures quarter	Expenditures YTD
Programs:				
Compacts	$0	$0	$0	$0
Threshold Programs, See (A) Below	40,000,000	0	0	0
Due Diligence/Monitoring and Evaluation See (B) Below	745,000	144,492	144,492	144,492
Inspector General			360,000	360,000
Total	40,745,000	144,492	504,492	504,492
Memo: Inter-agency transfers (included above)				
(A) *Threshold Programs:* USAID agreement to oversee agreements with Threshold Program countries	40,000,000			
(B) *Due Diligence:* Department of the Treasury, Office of Technical Assistance (OTA)—Evaluation by OTA of eligible country financial management systems	250,000			
(B) *Due Diligence:* U.S. Army Corps—Evaluation by Army Corps of Honduran proposal	200,000			

FOR FURTHER INFORMATION CONTACT: Jake Stefanik, Legislative Assistant, Office of Domestic Affairs, at *info@mcc.gov* or (202) 521–3600.

Dated: March 15, 2005.

Frances C. McNaught,

Vice President, Domestic Relations, Millennium Challenge Corporation.

[FR Doc. 05–5511 Filed 3–18–05; 8:45 am]

BILLING CODE 9210–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

March 10, 2005.

TIME AND DATE: 10 a.m., Thursday, March 17, 2005.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Georges Colliers, Inc.*, Docket No. EAJ 2002–2. (Issues include whether the administrative law judge properly denied fees and expenses to Georges Colliers, Inc. under the Equal Access to Justice Act, 5 U.S.C. 504 *et seq.*)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202)434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 05–5637 Filed 3–17–05; 2:17 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Live Swine from Canada
Inv. No.:	731-TA-1076 (Final)
Date and Time:	March 8, 2005 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

OPENING REMARKS:

Petitioner (**Paul C. Rosenthal**, Collier Shannon Scott, PLLC)
Respondents (**Mark S. McConnell**, Hogan & Hartson L.L.P.
and **Daniel L. Porter**, Willkie Farr & Gallagher LLP)

In Support of the Imposition of Antidumping Duties:

Collier Shannon Scott, PLLC
Washington, DC
on behalf of

The National Pork Producers Council and petitioning state pork associations and pig/hog producers

Jon Caspers, Owner, Pleasant Valley Pork
Gary Ledger, Owner, Ledger Swine Farms
Arthur Mueller, General Manager, WISPIG
John Lader, Partner, GLM Farms
Nicholas Giordano, International Trade Counsel, National Pork Producers Council
Glenn Grimes, Professor Emeritus, University of Missouri
Dermot Hayes, Professor, Iowa State University
John Lawrence, Professor, Iowa State University
Steve R. Meyer, President, Paragon Economics, Inc.
Brad Hudgens, International Trade Analyst, Georgetown Economic Services

Paul C. Rosenthal – OF COUNSEL
Mary T. Staley

In Opposition to the Imposition of Antidumping Duties:

Willkie Farr & Gallagher LLP
Washington, DC
on behalf of

Manitoba Pork Council; M & F Trading; Hytek Ltd.; Maximum Swine Marketing; Excel Swine Services; Elite Swine Inc. (Maple Leaf); K-Line Pigs Ltd.; Phoenix Agritec; Spectrum Feeds, Ltd.; Budget Sow Group; Topeka Farms Ltd.; Van Boekel Farms; Southeast Marketing; Hart Feeds, Ltd.; Excel Playgreen; Patron Farms; Brenelm Farms

Larry Friesen, Director, Manitoba Pork Council
Tom Samp, President, Unique Swine Systems
Doug Becker, Director, Corn Advantage Cooperative
Doug Jasper, Director, Pig Procurement, Propig
Ab Freig, President and CEO, The Puratone Corporation
Andrew Holtmann, Director, Phoenix AgriTec
Jason Gould, Director, Business Analysis, Maple Leaf Food, Inc.
Lance Mistelbacher, Director, Commodity Risk Management, Maple Leaf Food, Inc.
Lauren Wiebe, Topeka Farms, Ltd.
Nancy Wiebe, Topeka Farms, Ltd.
Colin Carter, Professor, University of California
Thomas Prusa, Professor, Rutgers University

Daniel L. Porter - OF COUNSEL
James P. Durling
Matthew P. McCullough
Joseph Laroski

Hogan & Hartson L.L.P.
Washington, DC
on behalf of

Ontario Pork Producers' Marketing Board ("Ontario Pork")

Larry Skinner, Chairman, Ontario Pork
Jack Slibar, Executive Director, Ontario Pork
Andrew Marks, Director, Sales and Logistics, Ontario Pork
Patrick O'Neil, Sales Team Manager, Ontario Pork
Mary Lou McCutcheon, Business Intelligence Analyst, Ontario Pork
Ron Gietz, Vice President, Pork Industry Analysis, Informa Economics
John Reilly, Economist, Nathan Associates Inc.

Mark S. McConnell - OF COUNSEL
Deen Kaplan
Melanie A. Frank
Jonathan T. Stoel

In Opposition to the Imposition of Antidumping Duties:–*Continued*

Akin Gump Strauss Hauer & Feld LLP
Washington, DC
on behalf of

An *ad hoc* group of Midwestern packers and processors

Gary Machan, Vice President, Pork Procurement, Tyson Fresh Meats
Brian Stevens, Director, Pork Procurement, Hormel Foods Corporation

Spencer S. Griffith - OF COUNSEL

Serko & Simon
Washington, DC
on behalf of

Baxter Transport, Ltd.
J. Quintaine & Son Ltd.
Zangtingh Swine Inc.

Jerome L. Hanifin – OF COUNSEL

Cameron & Hornbostel LLP
Washington, DC
on behalf of

The Canadian Pork Council ("CPC") and its member organizations: Alberta Pork, B.C. Hog Marketing Commission, Federation des Producteaurs de Porcs du Quebec, Manitoba Pork Council, Ontatio Pork Producers' Marketing Board, P.E.I. Hog Commodity Marketing Board, Porc NB Pork, Pork Nova Scotia, and Sask Pork

Edouard Asnong, First Vice President, CPC
Martin Rice, Executive Director, CPC

William K. Ince - OF COUNSEL
Alexander W. Sierck

REBUTTAL/CLOSING REMARKS:

Petitioners (**Paul C. Rosenthal**, Collier Shannon Scott, PLLC)
Respondents (**Mark S. McConnell**, Hogan & Hartson L.L.P.
and **James P. Durling**, Willkie Farr & Gallagher LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Live swine: Summary data concerning the U.S. market, 2002-04

(Value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data			Period changes		
	2002	2003	2004	2002-04	2002-03	2003-04
U.S. consumption quantity:						
Amount (1,000 head)	100,378	101,043	103,573	3.2	0.7	2.5
Producers' share (1)	94.3	92.6	91.8	-2.5	-1.6	-0.9
Importers' share (1):						
Canada (subject)	***	***	***	***	***	***
Canada (Hytek)	***	***	***	***	***	***
Canada (total)	5.7	7.4	8.2	2.5	1.6	0.9
Other sources	(2)	(2)	(2)	0.0	0.0	0.0
Total imports	5.7	7.4	8.2	2.5	1.6	0.9
Amount (1,000 pounds)	26,561,446	26,875,745	27,588,318	3.9	1.2	2.7
Producers' share (1)	97.3	96.8	96.3	-1.0	-0.6	-0.5
Importers' share (1):						
Canada (subject)	***	***	***	***	***	***
Canada (Hytek)	***	***	***	***	***	***
Canada (total)	2.7	3.2	3.7	1.0	0.6	0.5
Other sources	(2)	(2)	(2)	0.0	0.0	0.0
Total imports	2.7	3.2	3.7	1.0	0.6	0.5
U.S. consumption value:						
Amount	8,872,648	10,129,207	14,134,690	59.3	14.2	39.5
Producers' share (1)	96.5	96.1	96.2	-0.4	-0.5	0.1
Importers' share (1):						
Canada (subject)	***	***	***	***	***	***
Canada (Hytek)	***	***	***	***	***	***
Canada (total)	3.5	3.9	3.8	0.4	0.5	-0.1
Other sources	0.0	0.0	0.0	0.0	-0.0	0.0
Total imports	3.5	3.9	3.8	0.4	0.5	-0.1
U.S. imports from:						
Canada (subject):						
Quantity (1,000 head)	***	***	***	***	***	***
Quantity (1,000 pounds)	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value (per head)	***	***	***	***	***	***
Unit value (per pound)	***	***	***	***	***	***
Canada (Hytek):						
Quantity (1,000 head)	***	***	***	***	***	***
Quantity (1,000 pounds)	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value (per head)	***	***	***	***	***	***
Unit value (per pound)	***	***	***	***	***	***
Canada (total):						
Quantity (1,000 head)	5,726	7,429	8,498	48.4	29.8	14.4
Quantity (1,000 pounds)	708,507	873,331	1,025,054	44.7	23.3	17.4
Value	307,501	398,491	539,412	75.4	29.6	35.4
Unit value (per head)	$53.71	$53.64	$63.47	18.2	-0.1	18.3
Unit value (per pound)	$0.43	$0.46	$0.53	21.2	5.1	15.3
Other sources:						
Quantity (1,000 head)	0.6	0.2	0.5	-9.3	-68.3	185.9
Quantity (1,000 pounds)	147	5	236	61.1	-96.3	4271.5
Value	204	54	509	149.1	-73.6	843.5
Unit value (per head)	$339.66	$282.67	$932.98	174.7	-16.8	230.1
Unit value (per pound)	$1.39	$9.99	$2.16	54.6	616.4	-78.4
All sources:						
Quantity (1,000 head)	5,726	7,429	8,499	48.4	29.7	14.4
Quantity (1,000 pounds)	708,654	873,337	1,025,290	44.7	23.2	17.4
Value	307,706	398,545	539,921	75.5	29.5	35.5
Unit value (per head)	$53.74	$53.64	$63.53	18.2	-0.2	18.4
Unit value (per pound)	$0.43	$0.46	$0.53	21.3	5.1	15.4

Table continued on next page.

Table C-1—Continued
Live swine: Summary data concerning the U.S. market, 2002-04

(Value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data			Period changes		
	2002	2003	2004	2002-04	2002-03	2003-04
U.S. producers':						
Breeding stock (1,000 head)	6,058	6,009	5,969	-1.5	-0.8	-0.7
Production (1,000 head)	101,678	101,490	102,457	0.8	-0.2	1.0
U.S. commercial shipments:						
Quantity (1,000 head)	94,651	93,613	95,074	0.4	-1.1	1.6
Quantity (1,000 pounds)	25,852,792	26,002,408	26,563,028	2.7	0.6	2.2
Value	8,564,943	9,730,663	13,594,769	58.7	13.6	39.7
Unit value (per head)	$90.49	$103.95	$142.99	58.0	14.9	37.6
Unit value (per pound)	$0.33	$0.37	$0.51	54.5	13.0	36.8
Export shipments:						
Quantity (1,000 head)	88	123	133	50.9	38.8	8.7
Quantity (1,000 pounds)	23,427	32,689	35,585	51.9	39.5	8.9
Value	12,342	22,777	23,505	90.4	84.5	3.2
Unit value (per head)	$139.57	$185.53	$176.13	26.2	32.9	-5.1
Unit value (per pound)	$0.53	$0.70	$0.66	25.4	32.3	-5.2
Ending inventory (1,000 head)	59,554	60,444	60,645	1.8	1.5	0.3
Inventories/total shipments (1)	62.9	64.5	63.7	0.8	1.6	-0.8
Net sales:						
Quantity (1,000 head)	36,356	37,288	39,363	8.3	2.6	5.6
Value	3,060,933	3,227,247	4,405,215	43.9	5.4	36.5
Unit value (per head)	$84.19	$86.55	$111.91	32.9	2.8	29.3
Total operating expenses	3,264,587	3,444,021	3,776,149	15.7	5.5	9.6
Net income or (loss)	(203,654)	(216,774)	629,066	(3)	-6.4	(3)
Capital expenditures	232,690	90,411	62,042	-73.3	-61.1	-31.4
Unit operating expenses	$89.79	$92.36	$95.93	6.8	2.9	3.9
Unit net income or (loss)	($5.60)	($5.81)	$15.98	(3)	-3.8	(3)
Operating expenses/sales (1)	106.7	106.7	85.7	-20.9	0.1	-21.0
Net income or (loss)/sales	(6.7)	(6.7)	14.3	20.9	-0.1	21.0

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Less than 0.05 percent.
(3) Undefined.

Note.--In addition to combined financial results presented here from table VI-3, financial data reported by calendar and fiscal year periods are presented separately in tables V-1 and VI-2. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and official USDA and Commerce statistics.

APPENDIX D

AGGREGATED U.S. LIVE SWINE PRODUCERS' QUESTIONNAIRE DATA AND SALIENT HISTORICAL DATA CONCERNING LIVE SWINE

Table D-1
Live swine: U.S. producers' questionnaire data, 2002-04

(Quantity in number of animals)

Item	2002	2003	2004
Farrowing phase:			
Gestation capacity (owned)	1,086,853	1,112,303	1,161,994
Gestation capacity (contracted)	582,841	578,478	593,057
Sows actually bred	5,004,351	5,164,011	5,402,172
Farrowing capacity (owned)	762,197	857,015	880,388
Farrowing capacity (contracted)	4,381,471	5,294,013	5,458,546
Sows actually farrowed	4,079,009	4,194,216	4,412,612
Total pigs weaned	38,476,553	39,498,434	42,323,544
Pigs per litter (average)	9.5	9.6	9.7
Weaned pigs sold to other USPs	650,665	796,915	1,167,259
Weaned pigs to owned facilities	18,945,776	18,546,868	19,665,135
Weaned pigs to contract facilities	16,493,280	17,306,321	18,591,373
Sows and boars sold for slaughter	891,922	902,296	868,512
Nursery phase:			
Nursery capacity (owned)	2,178,650	2,157,457	2,287,463
Nursery capacity (contracted)	3,071,855	3,223,521	3,386,250
Weaned pigs placed (U.S.-born)	33,357,263	33,022,320	35,275,323
Weaned pigs placed (Canadian)	718,729	929,134	604,600
Total feeder pigs produced	28,802,393	28,566,044	30,945,773
Feeder pigs sold to U.S. feeders	2,812,676	2,865,340	2,557,251
Feeder pigs to owned facilities	11,754,436	10,893,107	11,548,002
Feeder pigs to contract facilities	18,628,844	19,282,691	20,564,428
Finishing phase:			
Feeding capacity (owned)	8,065,567	7,390,046	7,547,269
Feeding capacity (contracted)	13,814,727	14,276,479	14,927,028
Feeder pigs placed (U.S.-born)	28,398,916	28,150,498	30,396,706
Feeder pigs placed (Canadian)	745,529	947,524	798,403
Total market hogs produced	28,089,710	29,086,510	30,168,994
Market hogs sold to processors	9,210,677	9,442,060	9,407,382
Market hogs transferred (owned)	16,372,745	17,124,473	18,281,885
Average number of PRWs	9,316	9,375	9,535
PRW hours worked (1,000)	22,342	22,820	23,046
PRW wages paid ($1,000)	252,663	258,756	264,478
Hourly wages	$11.31	$11.34	$11.48

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-2
Live swine: U.S. hog inventory, pig crop, commercial slaughter, U.S. imports from Canada, average slaughter weight, and barrows and gilts prices (live and carcass weight basis), 1980-2004[1]

Year	Total hog inventory (as of Dec. 1)	U.S. pig crop (Dec.-Nov.)	Commercial slaughter	U.S. imports of swine from Canada[1]	Average live weight at slaughter	Barrows and gilts, (pork live 51-52 % lean)[2]	Barrows and gilts, (pork, 51-52 carcass weight basis)
	1,000 head				Pounds	$ per 100 pounds	
1980	64,462	101,720	96,074	247	242	$42.49	$57.42
1981	58,698	93,853	91,575	146	243	47.08	63.62
1982	54,534	85,189	82,190	295	243	58.78	79.44
1983	56,694	93,194	87,584	447	243	50.78	68.62
1984	54,073	86,586	85,168	1,322	244	51.91	70.15
1985	52,314	86,036	84,492	1,227	245	47.82	64.63
1986	51,001	82,571	79,598	504	246	54.46	73.60
1987	54,384	88,423	81,081	446	248	54.81	74.07
1988	55,466	92,883	87,795	836	249	46.07	62.26
1989	53,788	91,920	88,691	1,073	249	46.75	63.17
1990	54,416	90,100	85,136	886	250	57.75	78.04
1991	57,649	95,315	88,169	1,054	252	51.79	69.98
1992	58,202	99,142	94,889	669	253	44.87	60.63
1993	57,940	97,326	93,068	837	254	48.17	65.09
1994	59,738	101,478	95,697	914	256	42.00	56.76
1995	58,201	98,816	96,326	1,747	257	44.62	60.30
1996	56,124	94,459	92,394	2,778	254	56.53	76.40
1997	61,158	99,584	91,960	3,176	256	54.30	73.38
1998	62,204	105,005	101,029	4,122	257	34.72	46.92
1999	59,335	102,352	101,544	4,135	259	34.00	45.95
2000	59,110	100,743	97,977	4,355	263	44.69	60.39
2001	59,722	100,617	97,962	5,315	264	45.81	61.90
2002	59,554	101,678	100,263	5,726	265	34.91	47.18
2003	60,444	101,490	100,777	7,429	267	39.45	53.31
2004	60,501	102,305	103,454	8,498	266	52.51	70.96

[1] Data for 1980-88 include swine from all countries. Data for 1989-2004 are for imports from Canada and exclude purebred breeding animals.

[2] Pork, live 51-52 percent lean, converted from carcass weight, estimated prior to 1997. Live equivalent = carcass weight multiplied by 0.74.

Source: 1980-2002 hog inventory and pig crop data: USDA, NASS, *Livestock Track Records*, Sept. 2004, and 2003-04 data: NASS *Quarterly Hogs and Pigs*, Dec. 28, 2004. 1980-2003 commercial slaughter, average live weight at slaughter, and barrows and gilts, pork, live 51-52 percent lean: USDA, ERS, Red Meat Yearbook, found at http://www.ers.usda.gov/data/sdp/view.asp?+livestock/94006/. 2004 price data found at USDA, ERS, Livestock, Dairy, and Poultry Outlook, LDP-M-127/January 21, 2005, and 2004 commercial slaughter found at USDA, NASS, *Livestock Slaughter*, January 2005. 1989-2004 swine imports compiled from official Commerce statistics.

APPENDIX E

MONTHLY IMPORT DATA

Table E-1
Live swine: U.S. Imports from Canada, by HTS and by month, 2002

HTS	Description	January	February	March	April	May	June	July	August	September	October	November	December	Total
		Quantity (number)												
0103.91.0000	Weighing less than 50 kg each	348,728	276,429	276,971	307,923	353,273	283,639	301,093	294,458	269,923	392,866	322,166	331,013	3,758,482
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	196,600	146,337	161,942	153,983	152,645	142,708	138,147	130,832	143,650	151,751	136,626	152,654	1,808,075
0103.92.0090	Weighing 50 kg or more each, other	14,525	9,335	13,912	16,769	18,959	9,888	15,673	11,363	12,823	12,422	12,636	10,784	159,089
	Total	559,853	432,101	452,825	478,675	524,877	436,235	454,913	436,653	426,596	557,039	471,428	494,451	5,725,646
		Quantity (kilograms)												
0103.91.0000	Weighing less than 50 kg each	4,889,734	3,776,525	3,582,586	4,124,068	4,903,270	4,130,880	4,325,544	4,424,792	4,090,044	5,221,725	4,501,796	4,914,106	52,885,070
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	26,685,140	20,199,709	22,190,131	21,482,494	21,302,817	20,298,484	20,241,509	18,948,446	20,248,382	21,471,775	19,338,988	20,964,181	253,372,056
0103.92.0090	Weighing 50 kg or more each, other	1,300,588	955,334	1,346,413	1,535,858	1,735,712	1,033,766	1,447,320	1,142,973	1,184,786	1,255,047	1,259,312	922,437	15,119,546
	Total	32,875,462	24,931,568	27,119,130	27,142,420	27,941,799	25,463,130	26,014,373	24,516,211	25,523,212	27,948,547	25,100,096	26,800,724	321,376,672
		Quantity (1,000 pounds)												
0103.91.0000	Weighing less than 50 kg each	10,780	8,326	7,898	9,092	10,810	9,107	9,536	9,755	9,017	11,512	9,925	10,834	116,590
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	58,830	44,532	48,920	47,360	46,964	44,750	44,624	41,774	44,640	47,337	42,635	46,218	558,584
0103.92.0090	Weighing 50 kg or more each, other	2,867	2,106	2,968	3,386	3,827	2,279	3,191	2,520	2,612	2,767	2,776	2,034	33,333
	Total	72,477	54,964	59,787	59,838	61,600	56,136	57,351	54,048	56,268	61,615	55,336	59,085	708,507
		LDP value ($)												
0103.91.0000	Weighing less than 50 kg each	12,110,588	10,093,601	9,657,402	9,922,606	10,452,509	7,617,418	7,531,454	7,154,653	5,999,647	8,719,833	8,768,238	10,473,117	108,501,066
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	20,539,387	15,908,634	17,033,844	15,344,577	15,047,073	14,616,534	14,397,291	12,327,822	10,565,221	12,501,197	10,700,969	12,549,866	171,532,415
0103.92.0090	Weighing 50 kg or more each, other	2,375,012	1,716,520	2,567,404	2,770,133	3,379,148	1,674,772	2,564,150	2,218,857	2,083,242	1,994,610	2,251,035	1,872,923	27,467,806
	Total	35,024,987	27,718,755	29,258,650	28,037,316	28,878,730	23,908,724	24,492,895	21,701,332	18,648,110	23,215,640	21,720,242	24,895,906	307,501,287

Source: Compiled from official Commerce statistics.

Table E-1--Continued
Live swine: U.S. imports from Canada, by HTS and by month, 2003

HTS	Description	January	February	March	April	May	June	July	August	September	October	November	December	Total
		Quantity (number)												
0103.91.0000	Weighing less than 50 kg each	377,133	328,845	370,013	397,116	426,665	401,779	(1)	(1)	(1)	(1)	(1)	(1)	2,301,551
0103.91.0010	Weighing less than 7 kg each	(1)	(1)	(1)	(1)	(1)	(1)	273,168	220,604	235,520	244,646	215,380	257,632	1,446,950
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	(1)	(1)	(1)	(1)	(1)	(1)	61,527	58,523	62,633	53,911	58,043	53,951	348,588
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	(1)	(1)	(1)	(1)	(1)	(1)	134,096	141,362	150,983	145,545	132,033	169,936	873,955
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	153,284	108,774	119,364	114,911	121,872	163,238	212,887	213,017	247,979	256,435	241,873	262,029	2,215,663
0103.92.0090	Weighing 50 kg or more each, other	14,562	11,618	18,268	16,728	19,955	14,936	26,923	29,352	25,493	27,187	18,112	19,376	242,510
	Total	544,979	449,237	507,645	528,755	568,492	579,953	708,601	662,858	722,608	727,724	665,441	762,924	7,429,217
		Quantity (kilograms)												
0103.91.0000	Weighing less than 50 kg each	5,136,041	4,536,662	5,012,047	5,850,329	5,878,530	5,894,286	(1)	(1)	(1)	(1)	(1)	(1)	32,307,895
0103.91.0010	Weighing less than 7 kg each	(1)	(1)	(1)	(1)	(1)	(1)	1,503,196	1,219,552	1,312,367	1,362,073	1,211,011	1,449,807	8,058,006
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	(1)	(1)	(1)	(1)	(1)	(1)	1,093,400	1,046,128	1,097,057	932,825	880,150	921,714	5,971,274
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	(1)	(1)	(1)	(1)	(1)	(1)	3,594,983	3,852,005	4,077,269	3,967,704	3,611,324	4,733,622	23,836,907
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	21,563,906	16,080,225	17,816,967	17,063,891	18,086,792	22,366,413	27,458,411	27,138,881	31,734,813	32,667,801	30,981,029	33,286,252	296,245,381
0103.92.0090	Weighing 50 kg or more each, other	1,180,136	938,558	1,664,412	1,647,979	1,915,437	1,810,233	3,791,309	3,940,103	3,730,181	3,265,920	2,919,390	2,917,428	29,721,086
	Total	27,880,083	21,555,445	24,493,426	24,562,199	25,880,759	30,070,932	37,441,299	37,196,669	41,951,687	42,196,323	39,602,904	43,308,823	396,140,549
		Quantity (1,000 pounds)												
0103.91.0000	Weighing less than 50 kg each	11,323	10,002	11,050	12,898	12,960	12,995	(1)	(1)	(1)	(1)	(1)	(1)	71,226
0103.91.0010	Weighing less than 7 kg each	(1)	(1)	(1)	(1)	(1)	(1)	3,314	2,689	2,893	3,003	2,670	3,196	17,765
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	(1)	(1)	(1)	(1)	(1)	(1)	2,411	2,306	2,419	2,057	1,940	2,032	13,164
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	(1)	(1)	(1)	(1)	(1)	(1)	7,925	8,492	8,989	8,747	7,962	10,436	52,551
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	47,540	35,450	39,279	37,619	39,874	49,309	60,535	59,830	69,963	72,019	68,301	73,383	653,103
0103.92.0090	Weighing 50 kg or more each, other	2,602	2,069	3,669	3,633	4,223	3,991	8,358	8,686	8,224	7,200	6,436	6,432	65,523
	Total	61,464	47,521	53,998	54,150	57,057	66,294	82,543	82,004	92,487	93,026	87,309	95,479	873,331
		LDP value ($)												
0103.91.0000	Weighing less than 50 kg each	12,713,503	10,936,305	11,800,705	12,912,242	13,395,114	12,764,466	(1)	(1)	(1)	(1)	(1)	(1)	74,522,335
0103.91.0010	Weighing less than 7 kg each	(1)	(1)	(1)	(1)	(1)	(1)	6,115,896	4,965,846	5,379,069	5,834,769	5,063,534	6,104,594	33,463,708
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	(1)	(1)	(1)	(1)	(1)	(1)	1,900,440	1,554,651	1,683,349	1,734,974	1,797,464	1,807,158	10,478,036
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	(1)	(1)	(1)	(1)	(1)	(1)	5,148,382	4,395,199	4,961,975	5,285,637	4,961,702	6,326,931	31,079,826
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	13,475,870	10,164,894	11,294,428	10,933,158	12,484,846	17,141,291	20,785,065	20,201,375	23,447,447	24,048,260	21,927,161	23,589,992	209,493,787
0103.92.0090	Weighing 50 kg or more each, other	2,216,332	1,766,699	3,101,331	2,789,393	3,240,614	2,728,345	4,329,422	5,054,677	4,131,072	4,432,145	2,887,368	2,775,465	39,452,863
	Total	28,405,705	22,867,898	26,196,464	26,634,793	29,120,574	32,634,102	38,279,205	36,171,748	39,602,912	41,335,785	36,637,229	40,604,140	398,490,555

(1) Not applicable.

Note.--HTS item 0103.91.0000 was replaced by HTS items 0103.91.0010, 0103.91.0020, and 0103.91.0030 in July 2003.

Source: Compiled from official Commerce statistics.

Table E-1--Continued
Live swine: U.S. imports from Canada, by HTS and by month, 2004

HTS	Description	January	February	March	April	May	June	July	August	September	October	November	December	Total
		Quantity (number)												
0103.91.0010	Weighing less than 7 kg each	290,181	242,716	264,337	279,244	237,804	241,747	295,114	252,657	279,794	202,168	256,261	244,947	3,086,970
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	65,733	52,044	40,332	44,737	56,567	61,604	47,544	52,538	57,119	53,783	38,807	42,653	613,461
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	160,047	151,956	179,428	167,059	147,790	157,542	165,691	177,634	168,333	144,205	160,461	141,906	1,922,052
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	269,841	206,935	229,896	203,731	180,044	195,898	204,183	206,796	223,425	223,058	259,467	252,543	2,655,817
0103.92.0090	Weighing 50 kg or more each, other	18,778	16,975	18,855	17,687	16,456	15,170	18,466	18,744	25,931	18,444	21,196	13,386	220,088
	Total	804,580	670,626	732,848	712,458	638,661	671,961	730,998	708,369	754,602	641,658	736,192	695,435	8,498,388
		Quantity (kilograms)												
0103.91.0010	Weighing less than 7 kg each	1,632,257	1,373,506	1,489,474	1,573,767	1,312,089	1,357,755	1,656,200	1,416,935	1,573,129	1,104,576	1,454,828	1,350,323	17,294,839
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	1,230,807	934,361	766,968	785,237	1,060,562	1,009,938	778,567	961,210	1,017,567	967,281	689,390	742,931	10,954,819
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	4,436,243	4,160,830	4,832,376	4,407,540	4,029,798	4,264,330	4,526,317	4,741,379	4,513,490	3,919,997	4,364,656	3,865,144	52,062,100
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	34,879,819	27,398,912	30,386,352	27,274,084	24,296,287	26,806,047	26,955,919	27,755,875	29,152,986	29,049,708	33,619,152	32,752,604	350,327,745
0103.92.0090	Weighing 50 kg or more each, other	3,021,002	2,547,639	2,947,078	2,868,416	2,785,243	2,668,975	2,895,137	3,123,139	3,333,190	2,930,818	3,086,991	2,114,434	34,322,062
	Total	45,200,128	36,415,248	40,422,248	36,909,044	33,483,979	36,107,045	36,812,140	37,998,538	39,590,362	37,972,380	43,225,017	40,825,436	464,961,565
		Quantity (1,000 pounds)												
0103.91.0010	Weighing less than 7 kg each	3,598	3,028	3,284	3,470	2,893	2,993	3,651	3,124	3,468	2,435	3,207	2,977	38,128
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	2,713	2,060	1,691	1,731	2,338	2,227	1,716	2,119	2,243	2,132	1,542	1,638	24,151
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	9,780	9,173	10,653	9,717	8,864	9,401	9,979	10,453	9,950	8,642	9,622	8,521	114,776
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	76,896	60,404	66,990	60,128	53,564	59,097	59,427	61,191	64,271	64,043	74,117	72,206	772,333
0103.92.0090	Weighing 50 kg or more each, other	6,660	5,617	6,497	6,324	6,140	5,884	6,383	6,885	7,348	6,461	6,806	4,661	75,666
	Total	99,648	80,281	89,115	81,370	73,819	79,602	81,156	83,772	87,281	83,714	95,294	90,004	1,025,054
		LDP value ($)												
0103.91.0010	Weighing less than 7 kg each	7,389,298	6,074,765	6,337,846	6,787,449	5,703,843	5,834,300	7,286,184	6,146,693	7,215,246	5,307,678	8,208,050	8,645,956	80,937,308
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	2,267,808	1,822,927	1,562,009	1,789,457	2,213,576	2,041,593	1,760,118	1,844,817	2,125,858	2,053,875	1,722,972	1,957,194	23,162,204
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	6,063,526	6,137,717	7,714,395	7,131,450	6,619,285	7,016,095	7,028,498	7,508,360	7,288,975	6,315,626	8,285,373	8,006,491	85,115,791
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	24,986,863	20,424,353	23,952,685	22,358,890	21,450,794	24,434,402	25,872,133	26,187,786	27,520,768	27,664,034	34,085,615	31,608,737	310,547,060
0103.92.0090	Weighing 50 kg or more each, other	2,970,347	2,681,668	3,124,268	3,042,873	2,919,644	3,012,400	3,763,709	3,795,267	4,790,639	3,434,623	3,630,345	2,483,544	39,649,327
	Total	43,677,842	37,141,430	42,691,203	41,110,119	38,907,142	42,338,790	45,710,642	45,482,923	48,941,486	44,775,836	55,932,355	52,701,922	539,411,690

Source: Compiled from official Commerce statistics.

APPENDIX F

ANNUAL PORK EXPORT DATA

Table F-1
Pork: U.S. exports to top 10 markets, 1996-2004

COUNTRY	1996	1997	1998	1999	2000	2001	2002	2003	2004
	Quantity (1,000 pounds)								
Mexico	180,290	216,568	249,895	251,312	401,698	420,855	449,658	448,219	716,584
Japan	403,871	388,472	416,777	445,038	462,432	564,416	590,563	580,017	682,347
Canada	73,235	102,802	95,283	100,200	115,809	154,111	172,971	213,336	242,728
China	1,822	7,934	14,422	9,005	9,572	30,986	28,421	37,864	90,321
Taiwan	24,542	6,546	39,173	76,160	57,097	25,742	45,054	56,136	84,068
Korea	24,184	25,452	21,818	42,015	30,671	31,286	51,752	62,300	60,853
Russia	62,603	68,710	94,846	11,114	122,047	69,597	33,506	14,716	57,180
Hong Kong	69,811	87,362	93,303	72,278	60,809	74,183	50,119	58,174	37,770
Romania	0	0	149	0	130	53	1,479	3,753	14,739
Honduras	524	1,259	3,236	4,648	4,224	8,329	7,867	9,278	10,014
Subtotal (top 10)	840,882	905,105	1,028,901	1,011,769	1,264,488	1,379,557	1,431,389	1,483,793	1,996,604
All other	69,954	105,298	137,202	104,446	84,699	101,187	93,101	88,455	91,289
Total	910,836	1,010,403	1,166,103	1,116,216	1,349,186	1,480,744	1,524,490	1,572,248	2,087,893
Total	910,836	1,010,403	1,166,103	1,116,216	1,349,186	1,480,744	1,524,490	1,572,248	2,087,893
	FAS value ($1,000)								
Mexico	92,246	121,382	142,662	147,945	252,919	269,083	239,205	276,221	506,858
Japan	755,799	696,218	614,709	659,103	753,876	855,582	841,386	772,566	971,988
Canada	76,703	109,285	97,443	96,903	124,995	160,118	171,729	205,146	290,373
China	992	4,904	8,167	4,654	5,163	16,483	12,947	13,823	42,523
Taiwan	15,122	3,417	18,140	43,631	36,792	16,792	25,607	33,009	55,495
Korea	25,093	28,527	20,241	36,541	28,385	23,594	39,551	76,570	53,766
Russia	48,487	55,105	73,943	8,343	93,620	44,592	20,047	6,345	37,970
Hong Kong	43,434	56,353	49,671	32,343	31,669	33,426	23,813	27,811	23,866
Romania	0	0	37	0	109	16	740	1,658	10,429
Honduras	523	1,473	3,066	4,488	4,019	6,829	6,268	6,937	8,215
Subtotal (top 10)	1,058,400	1,076,663	1,028,077	1,033,950	1,331,546	1,426,515	1,381,292	1,420,087	2,001,483
All other	50,313	87,392	107,581	81,029	60,649	74,800	70,726	79,878	84,741
Total	1,108,713	1,164,055	1,135,658	1,114,979	1,392,195	1,501,315	1,452,018	1,499,965	2,086,223
Total	1,108,713	1,164,055	1,135,658	1,114,979	1,392,195	1,501,315	1,452,018	1,499,965	2,086,223

Note.--Ranking based on export quantity during 2004.

Source: Official Commerce Statistics (Schedule B 0203.11.0000, 0203.12.1000, 0203.12.9000, 0203.19.2000, 0203.19.4000, 0203.21.0000, 0203.22.1000, 0203.22.9000, 0203.29.2000, 0203.29.4000, 0206.30.0000, 0206.41.0000, 0206.49.0000, 0206.49.0010, 0206.49.0020, 0206.49.0030, 0206.49.0040, 0206.49.0050, 0206.49.0090, 0210.11.0000, 0210.12.0020, 0210.12.0040, 0210.19.0000, 1602.41.1000, 1602.41.2000, 1602.41.9000, 1602.42.2000, 1602.42.4000, 1602.49.1000, 1602.49.2000, 1602.49.4000, and 1602.49.7000).

APPENDIX G

MONTHLY USDA PRICES FOR 10-POUND, 40-POUND, AND 55-POUND PIGS AND SLAUGHTER HOGS

Table G-1
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 10-pound pigs, and margins of underselling/(overselling), by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
January	$35.39	80,165	$42.22	6,860	(19.3)
February	36.56	81,880	41.74	9,373	(14.2)
March.	35.28	132,919	39.43	13,389	(11.8)
April	34.35	65,656	38.71	8,200	(12.7)
May	32.46	79735	34.77	11,599	(7.1)
June	31.71	101,030	31.41	15,400	1.0
July	32.35	92,707	32.64	10,500	(0.9)
August	32.29	113,442	33.85	13,750	(4.8)
September	32.31	97,975	32.08	8,876	0.7
October	32.19	75,410	33.51	11,360	(4.1)
November	33.11	87,629	35.72	18,700	(7.9)
December	36.75	68,882	38.90	15,105	(5.8)
2002:					
January	38.91	80,265	39.32	13,935	(1.0)
February	40.75	106,735	44.51	9,865	(9.2)
March	35.12	147,811	38.17	13,968	(8.7)
April	29.61	122,918	31.04	9,318	(4.8)
May	28.13	124,933	22.17	16,095	21.2
June	19.90	74,208	18.22	9,575	8.4
July	22.18	65,625	12.29	10,030	44.6
August	16.98	122,857	13.86	18,444	18.4
September	17.64	79,283	14.94	26,640	15.3
October	24.36	123,128	22.85	20,668	6.2
November	29.88	175,462	26.55	26,647	11.2
December	34.81	149,383	13.88	50,416	60.1

Table continued on next page.

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2003:					
January	$36.44	200,654	$38.91	15,043	(6.8)
February	30.16	171,368	34.54	14,140	(14.5)
March.	29.75	165,291	28.46	19,050	4.3
April	28.18	162,088	27.19	21,433	3.5
May	29.15	197,714	27.36	16,500	6.1
June	30.02	134,214	28.60	20,240	4.7
July	28.80	150,210	26.05	19,780	9.5
August	27.19	177,551	23.35	24,433	14.1
September	29.74	158,989	26.30	29,003	11.6
October	31.27	228,091	27.97	33,178	10.6
November	32.04	153,689	29.94	40,780	6.6
December	31.75	146,807	31.53	19,640	0.7
2004:					
January	32.80	235,579	33.96	76,818	(3.6)
February	32.13	202,045	33.73	59,952	(5.0)
March	30.93	196,172	29.80	39,229	3.6
April	31.35	260,474	29.94	51,995	4.5
May	31.72	230,556	29.99	23,925	5.5
June	31.55	200,728	30.83	33,625	2.3
July	32.15	296,607	30.18	41,826	6.1
August	32.64	232,461	32.05	22,379	1.8
September	33.32	234,221	32.30	36,146	3.1
October	34.01	288,523	35.13	24,192	(3.3)
November	35.46	158,812	[1]	[1]	[1]
December	37.95	191,872	48.00	23,495	(26.5)

[1] No sales of imports from Canada reported.

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table G-2
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 40-pound pigs, and margins of underselling/(overselling), by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
January	$50.97	64,465	$52.10	12,490	(2.2)
February	52.66	67,470	55.66	15,420	(5.7)
March	55.90	63,065	58.76	20,205	(5.1)
April	57.82	51,334	63.25	9,500	(9.4)
May	53.25	52,058	56.02	10,100	(5.2)
June	51.25	61,634	50.40	11,050	1.7
July	48.64	53,883	48.41	13,070	0.5
August	45.51	68,699	43.04	18,556	5.4
September	45.25	36,886	42.13	13,460	6.9
October	45.62	30,971	43.43	12,955	4.8
November	46.29	36,647	45.14	19,150	2.5
December	49.57	26,796	51.97	9,735	(4.8)
2002:					
January	56.02	36,123	64.12	15,008	(14.5)
February	60.13	35,640	68.76	17,120	(14.3)
March	56.59	48,606	65.85	21,510	(16.4)
April	46.02	38,594	50.96	9,670	(10.7)
May	40.91	44,756	37.66	32,130	7.9
June	28.31	24,221	24.29	30,610	14.2
July	21.39	27,693	18.91	29,551	11.6
August	17.67	22,079	16.44	38,726	7.0
September	14.59	30,813	14.67	32,780	(0.5)
October	24.88	35,686	26.81	32,619	(7.7)
November	37.80	51,410	38.65	45,781	(2.3)
December	48.15	50,928	49.67	39,016	(3.2)

Table continued on next page.

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2003:					
January	$54.73	48,165	$56.46	43,982	(3.2)
February	50.46	19,447	54.61	29,994	(8.2)
March	50.56	25,501	51.87	53,332	(2.6)
April	47.82	23,428	50.35	63,327	(5.3)
May	44.40	41,741	45.18	68,902	(1.8)
June	41.65	38,111	43.71	59,104	(5.0)
July	38.19	16,984	37.80	33,824	1.0
August	23.75	32,420	26.34	64,469	(10.9)
September	30.29	28,004	30.50	49,773	(0.7)
October	37.74	31,688	38.76	65,003	(2.7)
November	38.23	32,224	39.56	54,873	(3.5)
December	38.76	18,028	40.50	44,907	(4.5)
2004:					
January	42.28	39,986	43.98	92,346	(4.0)
February	47.31	50,313	49.45	61,581	(4.5)
March	49.25	42,794	51.12	79,878	(3.8)
April	51.33	43,749	51.48	67,548	(0.3)
May	48.96	29,267	50.40	54,604	(2.9)
June	47.24	35,363	48.06	44,555	(1.7)
July	43.39	64,890	45.69	55,907	(5.3)
August	41.94	50,023	43.62	59,417	(4.0)
September	43.58	69,952	46.99	57,372	(7.8)
October	52.55	43,947	53.15	46,554	(1.2)
November	61.67	54,569	[1]	[1]	[1]
December	69.84	75,315	72.1	24,456	(3.2)

[1] No reported sales of imported pigs from Canada.

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table G-3
Live swine: Weighted-average delivered prices and quantities on certain sales of U.S.-produced and imported (from Canada) 55-pound pigs, and margins of underselling/(overselling), by quarters, 2001-04

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
January	$57.10	9,490	$60.29	19,250	(5.6)
February	59.58	937	64.54	16,775	(8.3)
March	67.36	5,390	69.05	19,875	(2.5)
April	68.10	1,368	71.96	27,800	(5.7)
May	56.99	595	59.11	12,075	(3.7)
June	51.28	10,322	55.14	27,185	(7.5)
July	54.51	1,625	53.26	43,625	2.3
August	51.45	6040	48.10	17,325	6.5
September	(1)	(1)	48.71	19,425	(1)
October	51.48	3,930	48.74	14,664	5.3
November	54.00	6,050	50.91	29,405	5.7
December	63.58	1,200	56.16	12,550	11.7
2002:					
January	66.10	2,945	66.30	10,575	(0.3)
February	76.61	3,300	68.05	10,650	11.2
March	66.50	400	65.84	17,166	1.0
April	53.09	3,885	47.95	6,355	9.7
May	30.80	3,600	39.64	7,800	(28.7)
June	13.94	1,000	30.74	7,750	(120.5)
July	17.21	4,795	33.23	2,050	(93.1)
August	17.53	4750	24.29	15,800	(38.6)
September	19.12	5,325	26.10	5,250	(36.5)
October	38.77	4,572	30.21	7,100	22.1
November	35.92	2,000	46.94	12,930	(30.7)
December	57.47	4,675	53.21	7,250	7.4

Table continued on next page.

Period	United States		Canada		
	Price (*Per head*)	Quantity (*Head count*)	Price (*Per head*)	Quantity (*Head count*)	Margin (*Percent*)
2003:					
January	$64.19	8,595	$59.91	18,559	6.7
February	59.81	2,720	58.29	14,320	2.6
March	56.44	7,470	53.74	12,545	4.8
April	56.50	1,400	52.45	14,650	7.2
May	49.40	2,991	50.23	29,450	(1.7)
June	46.00	350	46.41	25,871	(0.9)
July	(1)	(1)	41.27	23,345	(1)
August	(1)	(1)	30.99	37,070	(1)
September	28.44	640	32.24	26,805	(13.4)
October	(1)	(1)	43.84	20,860	(1)
November	40.50	2,040	42.28	29,173	(4.4)
December	(1)	(1)	43.11	8,434	(1)
2004:					
January	51.33	4,067	49.10	27,325	4.3
February	52.77	3,442	52.73	11,625	0.1
March	52.53	5,540	54.88	16,330	(4.5)
April	55.68	3,820	57.44	14,233	(3.2)
May	57.69	296	54.77	12,150	5.1
June	45.00	1,000	52.97	14,650	(17.7)
July	49.94	1,010	49.05	24,400	1.8
August	58.04	400	49.17	19,325	15.3
September	56.35	3,354	51.47	16,865	8.7
October	63.22	4,025	57.31	11,750	9.4
November	67.43	3,750	(2)	(2)	(3)
December	(1)	(1)	(2)	(2)	(3)

[1] No reported sales of U.S.-produced pigs reported.
[2] No reported sales of imported pigs from Canada.
[3] No reported sales of pigs.

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

Table G-4
Live swine: Weighted-average purchase prices and quantities on certain purchases reported by U.S. packers for slaughter hogs (barrows and gilts) and margins of underselling/(overselling), by quarters, October-December 2001-October-December 2004

Period	United States		Canada		
	Carcass price (*Per cwt*)	Quantity (*Head count*)	Carcass price (*Per cwt*)	Quantity (*Head count*)	Margin (*Percent*)
2001:					
October	$53.19	678,116	$53.18	2,540	0.0
November	45.71	631,145	40.83	205	10.7
December	44.71	587,923	44.82	628	(0.3)
2002:					
January	51.76	703,488	49.40	6,570	4.6
February	52.67	614,863	51.12	2,645	2.9
March.	48.13	600,064	49.83	6,130	(3.5)
April	42.21	633,686	39.92	1,955	5.4
May	45.19	626,968	49.90	7,510	(10.4)
June	49.99	587,247	47.54	3,107	4.9
July	53.16	645,571	51.47	2,339	3.2
August	42.75	674,110	42.82	3,798	(0.2)
September	35.45	630,112	35.66	3,505	(0.6)
October	40.88	711,811	41.15	1,890	(0.7)
November	38.49	639,781	37.71	1,485	2.0
December	41.75	617,068	42.80	535	(2.5)

Table continued on next page.

Period	United States		Canada		
	Carcass price (*Per cwt*)	Quantity (*Head count*)	Carcass price (*Per cwt*)	Quantity (*Head count*)	Margin (*Percent*)
2003:					
January	$44.79	625,345	$46.49	1,115	(3.8)
February	46.29	587,390	45.34	483	2.0
March	47.64	641,587	45.98	934	3.5
April	48.24	645,374	45.89	1,660	4.9
May	57.63	573,500	57.47	620	0.3
June	63.46	597,140	62.16	350	2.1
July	59.04	590,800	58.37	1,260	1.1
August	54.60	509,945	51.06	1,490	6.5
September	55.47	568,734	46.98	355	15.3
October	50.05	614,065	43.51	1,655	13.1
November	47.25	472,698	41.64	1,088	11.9
December	47.01	466,596	42.27	394	10.1
2004:					
January	51.91	466,686	47.08	599	9.3
February	59.86	422,925	58.78	36	1.8
March	64.36	510,259	57.27	629	11.0
April	64.51	441,687	61.59	565	4.5
May	78.12	424,522	77.04	690	1.4
June	77.05	406,381	[1]	[1]	[1]
July	76.78	366,185	72.00	320	6.2
August	73.43	435,059	66.97	335	8.8
September	75.14	540,117	73.28	1850	2.5
October	70.36	489,455	65.04	2660	7.6
November	75.30	499,390	63.30	4320	15.9
December	71.05	530,683	79.00	360	(11.2)

[1] No reported sales of imported hogs from Canada.

Source: Compiled from data provided by the USDA Agricultural Marketing Service.

APPENDIX H

PURCHASE PRICES FOR LIVE SWINE REPORTED BY U.S PRODUCERS AND BROKERS/DISTRIBUTORS/IMPORTERS

Table H-1
Live swine: Weighted-average delivered prices and quantities reported by U.S. producers on certain purchases of U.S.-produced and imported (from Canada) 10-pound pigs, by quarters, 2002-04

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Table H-2
Live swine: Weighted-average delivered prices and quantities reported by U.S. producers on certain purchases of U.S.-produced and imported (from Canada) 40-pound pigs, by quarters, 2002-04

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Table H-3
Live swine: Weighted-average delivered prices and quantities reported by U.S. producers on certain purchases of U.S.-produced and imported (from Canada) 50-pound pigs, by quarters, 2002-04

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Table H-4
Live swine: Weighted-average delivered prices and quantities reported by U.S. brokers/distributors/importers on certain purchases of U.S.-produced and imported (from Canada) 10-pound pigs, by quarters, 2002-04

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APPENDIX I

ALLEGED EFFECTS OF IMPORTS OF LIVE SWINE FROM CANADA ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, OR SCALE OF CAPITAL INVESTMENTS

The Commission requested U.S. firms to describe any actual or anticipated negative effects, since January 1, 2002, of imports of live swine from Canada, Porcine Reproductive and Respiratory Syndrome (PRRS), or other live-swine related diseases on their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments. Responses are shown below.[1]

Actual Negative Effects

***	Indicated that imports of live swine from Canada caused lowering of credit rating. With respect to how live swine from Canada caused this effect, stated that "{m}ore pork means lower prices in the U.S." Reported no actual negative effects caused by the other above-referenced sources.
***	Indicated that imports of live swine from Canada and PRRS and other live swine related disease had a negative effect on "return on investment." With respect to how live swine from Canada caused this effect, stated that "{a}s supply of hogs increase{d} from Canada it reduced what a packer is willing to pay me for my hogs (supply and demand)." With respect to how PRRS and other live-swine related diseases caused the negative effect, noted " . . . less productivity of my herd."
***	Indicated that imports of live swine from Canada and PRRS caused reduction in the size of capital investments. With respect to how live swine from Canada caused this effect, stated that "{i}ncreasing numbers of live pigs has lowered demand for our pigs and therefore price was depressed in 2002 and 2003." With respect to how PRRS and other live swine related disease caused the negative effect, noted that "PRRS is a direct cause of having poorer sow performance (less pigs), higher death loss of growing pigs and much higher medical expenses on the farm which is PRRS positive."
***	Indicated that imports of live swine from Canada caused "smaller returns." With respect to how live swine from Canada caused this effect, noted that "{h}og numbers from Canada competed for slaughter capacity with the hogs for sales by this farm." Reported no actual negative effects caused by any of the other above-referenced sources.

[1] The statements in this appendix are from all U.S. producers that submitted a questionnaire response. In contrast, the financial information presented in table VI-1, table VI-2, and table VI-3 represents what staff considered to be meaningful and/or which company officials were able to correct pursuant to staff follow-up requests. Since not all respondents were able to provide usable financial information, the total number of U.S. producers providing statements in this appendix is greater than the total number of discrete U.S. producers reflected in table VI-1, table VI-2, and table VI-3.

*** Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects and lowering of credit ratings. With respect to how live swine from Canada caused this effect, noted that "{e}ven though the U.S. was reducing number because of loss the Canadian hog continues to come in at greater numbers." Reported no actual negative effects caused by the other above-referenced sources.

*** "Imports from Canada resulted in oversupply – low prices and profitability." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada had caused a negative effect stating "{p}rice received at market." With respect to how live swine from Canada caused this negative effect, stated that "{t}he imports from Canada supplied more parts than could be consumed." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada caused reduction in the size of capital investments: "{n}o capital investment in 2003 and 2004." With respect to how live swine from Canada caused this negative effect, "{l}ack of profitability in pork production has caused producers to not reinvest in the production facilities." Generally noted the following regarding PRRS and/or other live swine related diseases "{p}oor production numbers results in low profitability."

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada caused reduction in the size of capital investments. With respect to how live swine from Canada caused this effect, noted that "{increased} supply – {decreased} prices for product sales." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada had caused a negative effect without reporting specific impact. With respect to how live swine from Canada caused the unspecified negative effect, noted that "{i}mported Canadian pigs increases the supply going to slaughter which lowers the price the packer is willing to pay." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada caused reduction in the size of capital investments and rejection of bank loans. With respect to how live swine from Canada caused these negative effects, stated "{t}oo many hogs on market, lower price – 1998 through 2003." Reported no actual negative effects caused by the other above referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada caused negative effects, stating "{l}ower market value due to Canadian imports." With respect to how live swine from Canada caused the negative effect, noted "Canadian imports increased the U.S. supply of market hogs and feeder pigs and prolonged a low profit period while U.S. production was decreasing in response to lower demand." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada caused lowering of credit rating. With respect to how live swine from Canada caused this effect, stated that "{r}elentless imports of Canadian feeder pigs, butcher hogs and pork have distorted the U.S.'s supply/demand/production cycles. Hog and pig imports from Canada to the U.S. have doubled since 2000. ***. I lost all the equity I built up in 30 years of raising hogs, while watching Canadians expanding production." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that live swine-related diseases caused "{n}egative impact on returns on investment . . ." With respect to effect of PRRS and live-swine related disease, "{d}ecreased reproductive and growth performance." Reported no actual negative effects caused by live swine from Canada.

*** Indicated that imports of live swine from Canada caused lowering of credit rating. With respect to the effect of Canadian live swine, noted that "{i}ncome has decreased."

*** Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects, reduction in the size of capital investments, and lowering of credit rating. With respect to how live swine from Canada caused these negative effects noted, "{e}ven when prices were at all time lows for U.S. producers, Canadian farmers were expanding and somehow profitable." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada had caused a negative effect stating "{t}he importing of Canadian hogs caused lower returns." With respect to how live swine from Canada caused this negative effect, did not provide meaningful response.

*** Indicated that imports of live swine from Canada caused denial or rejection of investment proposal, reduction in the size of capital investments, rejection of bank loans, and lowering of credit rating. With respect to how live swine from Canada caused these negative effects, noted "{s}ince we are a weaned pig producer, unfair competition from subsidized Canadian pigs pushed the supply side too high, resulting in very low prices." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects. With respect to how live swine from Canada caused this negative effect, noted "{a}s the U.S. swine herd contracted, the Canadian herd continued to grow rapidly and the piglets were mostly coming to the U.S. I believe it had to do with Canadian income subsidies and U.S. permitting restriction being imposed on U.S. production." Another effect noted was the "{r}efusal by Farm Credit Services to consider any new swine units during 2003 until supply/demand and price corrected itself." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that "PRRS had a negative effect on the operation and lowered ROI . . . PRRS and other secondary infections caused mortality to increase and reduced the total number of pigs sold 30-35 percent. This poor production performance really {affected} the return on investment." Reported no actual negative effects caused by imports of live swine from Canada.

*** Indicated that imports of live swine from Canada caused problems related to the cancellation or rejection of expansion projects and the reduction in the size of capital investments.

*** Indicated that imports of live swine from Canada caused problem related to the issue of stocks or bonds. With respect to how live swine from Canada caused this negative effect, noted "{b}uyer of weaner pigs would not pay what we wanted because of "other"- "Canadian" weaner pigs available ... We had to compete with the "other" sources." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects and reduction in the size of capital investments. With respect to the effect of live swine from Canada, "{i}f Canada is subsidizing its producers this promotes overexpansion by reducing the risk of failure thereby causing oversupply which then causes reduced prices." Reported no actual negative effects caused by the other above-referenced sources.

*** Indicated that imports of live swine from Canada caused negative effects: "{l}ack of profitability partially due to the importation of swine from Canada, has limited our capital purchases because our lender put a cap on how much we could spend per year for capital items." With respect to how live swine from Canada caused the negative effects, noted "{t}hey lowered the price we received for our market hogs and sows." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada caused cancellation and rejection of bank loans. Imports of live swine from Canada and PRRS caused reduction in the size of capital investments. With respect to how live swine caused the negative effects, noted "{t}oo many hogs cause unprofitability." With respect to how PRRS caused the negative effect, noted that "PRRS lowers production and production efficiency. Breakeven is higher. Canada dumps cheaper pigs on the market."

*** Reported no actual negative effects caused by any of the above-referenced sources.

***	Indicated that imports of live swine from Canada and PRRS caused rejection of bank loans and lowering of credit rating. With respect to how live swine from Canada caused the negative effects, noted "{a}ny change in market hogs causes live hog prices to fluctuate greater than before. Packers receiving hogs from Canada relieve pressure to buy from American hog producers." With respect to how PRRS caused the negative effects, "{w}e were starting a new sow herd in 2002 when PRRS hit from a neighbor's farm. *** and I had to borrow heavily to keep operation going."
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects, denial or rejection of investment proposal; and reduction in the size of capital investments. With respect to how live swine from Canada caused the negative effect, noted "{t}he more pigs come down from Canada the lower the market price for feeders and market hogs. Also the Canadian expansion of sow herds with negative returns caused us to rethink spending good capital dollars in the hog business. We have more and more building sites available, a stable work force and we enjoy the business." Reported no actual negative effects caused by the other above-referenced sources.
***	Did not identify specific source of actual negative effect, but stated "{i}ncentive to increase production due to uncertainty of future in pork production." With respect to the effect of Canadian live swine, "{g}ranted prices have been good in 2004 but how much better could they have been without the Canadian imports? 2002 plus 2003 were years of little or no profit -- we need good times to make up for bad times."
***	Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects. With respect to how live swine from Canada caused this negative effect, noted "{i}ncreased total swine marketed in the U.S." Did not indicate that it had experienced negative impact due to PRRS, but noted that "{i}t increases death loss, changes how hogs can be mixed, increased culls, and feed efficiency decreased."
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	Reported no actual negative effects caused by any of the above-referenced sources.

***	Reported no actual negative effects caused by imports of live swine from Canada. PRRS caused lowering of credit rating because it "{i}ncreased {the} cost of production."
***	Same response as *** above.
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	With respect to the effect of PRRS and other live-swine related diseases, "PRRS has cost our producers greatly – affecting many facets of our/their operations." With respect to the effect of PRRS and/other live swine related diseases, "{w}e can experience PRRS outbreak losses ranging from $0 to $200 per sow." Reported no actual negative effects caused by live swine from Canada.
***	Reported no actual negative effects caused by any of the above-referenced sources.
***	Indicated that imports of live swine from Canada caused cancellation or rejection of expansion projects, reduction in the size of capital investments, and lowering of credit rating ("negative watch because of industry outlook"). PRRS also caused rejection of expansion projects and reduction in the size of capital investments. Stated generally that "{i}n September 2002 we renegotiated our bank credit due to market conditions (impact of Canadian imports vs. PRRS vs. other not discernible). We reduce capital investments in 2003 and 2004 due to market conditions. Credit rating agencies gave us negative outlook in 2002/2003." With respect to how live swine from Canada caused the negative effected, noted "{a}ny expansion in market supplies, whether from Canada or elsewhere, would result in increased supply relative to existing demand which would negatively impact market prices which in turn would negatively impact our operating results." With respect to how PRRS caused the negative effect, noted "{w}e had a virulent strain of PRRS in our *** operations that caused operating losses."
***	Indicated that imports of live swine from Canada caused a "{r}eduction in profits." With respect to how live swine from Canadian caused the negative effect, noted "{w}e believe that the importation of live swine from Canada increased the supply of live animals available for slaughter in the U.S. and this resulted in lower prices for live swine in the U.S." With respect to how PRRS generally affected operations, noted that "{a}ll live swine related diseases tend to lower productivity and performance which results in a higher cost of production which results in lower profits."

*** Indicated that imports of live swine from Canada, PRRS, and other diseases caused reduction in the size of capital investments. With respect to how live swine from Canada caused the negative effect, noted "{t}he ready availability of an abundance of Canadian market hogs has negatively affected the price – until the positive effect of BSE has helped pork exports." With respect to how PRRS and other live-swine related diseases caused the negative effect, "{f}ewer market hogs to sell due to death loss from PRRS."

*** Indicated that imports of live swine from Canada caused the reduction in the size of capital investments. With respect to how live swine from Canada caused the negative effect, noted "{s}upply increases – markets respond by lowering prices, lower prices mean less money for capital investment." Reported no actual negative effects caused by the other above-referenced sources.

*** Did not specify the source of the negative effect, but stated "{l}oss of income because of lower hog prices."

*** Indicated that imports of live swine from Canada caused the cancellation or rejection of expansion projects, and the reduction in the size of capital investments. Noted "{p}robably have reduced the value of my building."

*** Indicated that imports of live swine from Canada, caused the reduction in the size of capital investments. Noted "{r}eturn on investment – lower prices for market hogs and the only thing that saved us (financially) was BSE and the Atkins diets. Otherwise 2004 would have been as bad as 2002 and 2003. There is no way we can affect supply if Canada is increasing its numbers as fast as, or faster, than we decrease ours. On a level playing field, USA producers will produce for supply, if we don't someone else will." Referred to lower prices as the mechanism by which imports of live swine from Canada caused the negative effect.

*** Indicated that it had experienced a "{n}egative effect on returns from increased Canadian imports, PRRS and other diseases." With respect to how live swine from Canada caused the negative effect, noted "{l}ower prices for live swine domestically." With respect to how PRRS and other live-swine related diseases caused the negative effect, noted "{l}ower overall production in our herds resulting in lower profitability."

*** Indicated that imports of live swine from Canada, PRRS and other live-swine related diseases caused reduction in the size of capital investments. With respect to how live swine from Canada caused the negative effect, noted that "{t}he ready availability of an abundance of Canadian market hogs has negatively affected the price until the positive effects of BSE has helped pork exports." With respect to how PRRS caused the negative effect, noted "{f}ewer market hogs to sell due to death loss from PRRS."

*** Indicated that imports of live swine from Canada and PRRS caused reduction in the size of capital investments and lowering of credit rating. With respect to how live swine from Canada caused the negative effect, noted that "{Canada} {s}upplied too many hogs for U.S. processors." With respect to how PRRS caused the negative effect, noted "{l}ost production."

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada caused rejection of bank loans and lowering of credit rating. With respect to how live swine from Canada caused the negative effect, noted "{w}ith estimates of a $5.00/cwt lowering of the cash market (caused by Canadian imports) during an already depressed market had a profound effect on our bottom line." Reported no actual negative effects caused by the other above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Reported no actual negative effects caused by any of the above-referenced sources.

*** Indicated that imports of live swine from Canada and PRRS caused rejection of bank loans and lowering of credit rating. With respect to how live swine from Canada caused the negative effects, noted "{l}owering of the cash hog market." With respect to how PRRS and/or other live swine related diseases caused the negative effects, no information was provided.

Anticipated Negative Effects (Imports of Live Swine from Canada only)

*** "Prices going down (oversupply)."

*** "Lower prices due to larger supply."

*** "The eastern corn belt has expanded its kill capacity in the last 2 years. In spite of this the pricing in the EC runs 1.50 – 2.00 behind the WC. The live pigs from Canada are depressing demand for our American pigs. For us it depresses our revenue by $325,000 to $450,000."

*** "Competition for packing capacity."

*** "Anytime you have increased supply, you reduce the price received."

*** "Imports of live swine will affect the market value of slaughter hogs. The Canadians are not reacting to market prices in the same way that U.S. producers have had to. They increase production and sow numbers. U.S. has had to decrease sows and production."

*** Reported no anticipated negative effects.

*** "The imports could create an oversupply of market hogs and drive down market prices."

*** Reported no anticipated negative effects.

*** "Lower revenue due to large of number of hogs from Canada."

*** "Lower prices for finished pigs due to increased Canadian pigs."

*** Reported no anticipated negative effects.

*** "Yes, if they continue to grow their industry even with negative market signals."

*** "The USA keeps the supply of hogs in check, but Canadian pigs shipped to the USA have flooded the market and keeps the price paid by packers at a lower level."

*** Illegible.

*** Reported no anticipated negative effects.

*** "If Canadian imports continue to grow from increased Canadian production the U.S. market will be depressed."

*** "As Canadian production increases, our U.S. packing capacity is filled. We lived through this in 1998-1999. More hogs to kill than space to kill them. Canadians responded by increasing production."

*** Reported no anticipated negative effects.

*** "Yes – numbers have been increasing every year (live swine from Canada). I feel they increase our numbers in the U.S. and lower our prices. I have also learned many stories of unhealthy live swine entering the U.S. for finishing. Many finishers have been unhappy with the pigs they were receiving."

*** "The importation of feeder pigs reduces the price for the feeder pigs (weaned pigs) we are able to sell. In 2004 I had 2 groups of pigs I was not able to sell. I was able to obtain locations that do not have hogs on an ongoing basis to finish those feeder pigs under my own ownership. I was not able to find other available locations to finish those pigs."

*** Reported no anticipated negative effects.

*** "May increase the likelihood of passing legislation to enforce mandatory country of origin labeling which would be expensive and unnecessary."

*** "Prices lower."

*** "Only if Canadian are still subsidized will we still have a negative impact. If we are put on level footing the market should be allowed to equalize. A free trade agreement should also be an equal trade agreement."

*** "The live swine from Canada into the U.S. is direct competition for bids for market hogs from the large packing plants. If the supply of market hogs is burdensome due to the extra hogs from Canada, packers are able to lower their bids and still have ample supplies."

*** "If the Canadian industry remains as large as it is and/or expands, competition from its subsidized pigs would continue to put undue financial pressure on our operation, especially when the price cycle turns back down."

*** "We have and will continue to have {anticipated negative effects} until the economics of production are put on a level playing field."

*** "Reduction in market prices due to increased supply of hogs in U.S."

*** Reported no anticipated negative effects.

*** "U.S. packers will continue to buy all of the pigs they need thus keeping prices low since packers need not compete for product."

*** "Continued product pricing competition with their product – may change with an appropriate duty."

*** Reported no anticipated negative effects.

*** Same response as reported for actual negative effects.

*** "Yes, live imports will continue to compete with our share of market animals and lower our prices."

*** "Only if too many fat hogs come into country – that we have a glut of pork on the market."

*** Reported no anticipated negative effects.

*** "Yes, since 1998 the U.S. sow herd has shrunk to seek equilibrium and in a supply that allows a profitable price. The Canadians keep dumping more and more pigs in the U.S. market each year – preventing a profitable price to be achieved."

*** Reported no anticipated negative effects.

*** "We sell our hogs in the upper Midwest. Our truckers deliver to 2 plants and they can tell where Canada hogs are coming {from} because they are forced to deliver to a different plant. More trucking costs."

*** "Taking market share (finishing space) and (slaughter capacity) from U.S. produced swine."

*** "Increased imports from Canada due to recent strike at Canada's plants affected eastern corn belt basis ($.05) per hundred weight for market hogs. This basis is used by plants in calculating price received for market hogs. Feeder pigs imported from Canada have affected negatively the price we receive for excess feeder pigs sold within our system."

*** "I feel that the Canadian sow herd has expanded rapidly and Canada does not have enough finishing capacity or slaughter capacity so the pigs are coming to the U.S. at subsidized prices, causing the U.S. feeder pig market to be much lower than production costs. Also the market hog demand has been very unstable.

*** "Prices for market swine have been lowered because of competition from swine coming in from Canada. We are reducing sow herd because of competition of Canadian producers being subsidized and sending feeder pigs and SFW into the U.S."

*** "5% reduction in price of market hogs – $500,000 per year cost to our company."

*** Reported no anticipated negative effects.

*** "Firm no longer exists."

*** "If Canada does not reduce subsidies to its producers, North America sow inventory will soon out pace demand and drive profitability down."

*** Reported no anticipated negative effects.

*** Same response as *** above.

*** "Since duties have been imposed, the price of pigs and market hogs have risen to profitable levels. The Canadian meat sector is in disarray since mad cow disease. The resulting collapse in the Canadian meat prices forces the Canadian to dump the only live animals they can export (pigs) to the U.S."

*** Reported no anticipated negative effects.

*** Reported no anticipated negative effects.

*** Same response as actual negative effects above.

*** Same response as actual negative effects above.

*** "When beef exports get back to normal there will again be a surplus of pork and a reduction in pork prices from Canadian imports."

*** "{Actual negative effect} continues as long as subsidized Canadian farmers expand and continue their production immune to market forces."

*** "Lower prices."

*** "Canada has continued to expand farrowing capacity without regard to market signals. I believe they have with the assistance from their government an unfair advantage."

*** "Canadians are increasing their sow head faster than we can reduce ours. If demand ever hits a wall and goes down fast, we could have another winter of 1998."

*** "We anticipated that continued imports of illegally subsidized live swine from Canada would typically lead to lower live swine prices domestically."

*** "When beef exports get back to normal there will again be a surplus of pork and a reduction in pork prices from Canadian imports."

*** "Some supply problem."

*** "U.S. domestic market price I receive will be lower if large numbers of swine are imported from Canada."

*** "Increasing imports from Canada would continue to have a negative effect on pig market, especially when production outstrips demand."

*** Reported no anticipated negative effects.

*** "Oversupply of market hogs will continue to have a detrimental effect on hog prices."

*** "Less market demand. Not able to expand when needed to."

APPENDIX J

INDIVIDUAL FINANCIAL RESULTS OF U.S. PRODUCERS RELATED TO CANADIAN FIRMS ENGAGED IN THE PRODUCTION OF LIVE SWINE AND/OR U.S. PRODUCERS THAT IMPORTED AND/OR PURCHASED CANADIAN LIVE SWINE

Table J-1
Live swine: Financial results of selected U.S. producers, calendar years or fiscal years (on or after September 30) 2002-04

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Table J-2
Live swine: Financial results of selected U.S. producers, fiscal years (prior to September 30) 2002-04

* * * * * * *

The following U.S. producers, which purchased live swine from Canada other than breeding stock as identified in the preliminary staff report, did not provide a questionnaire response for the final phase of these investigations: ***.[1] ***, which is identified in table III-8A of this final-phase staff report as a purchaser of live swine from Canada, did not provide usable financial information and is therefore not presented in table J-1 above.

[1] *Live Swine from Canada, Investigations Nos. 701-TA-438 (Preliminary) and 731-TA-1076 (Preliminary)*, USITC Publication 3693, May 2004, table III-8, p. III-11.