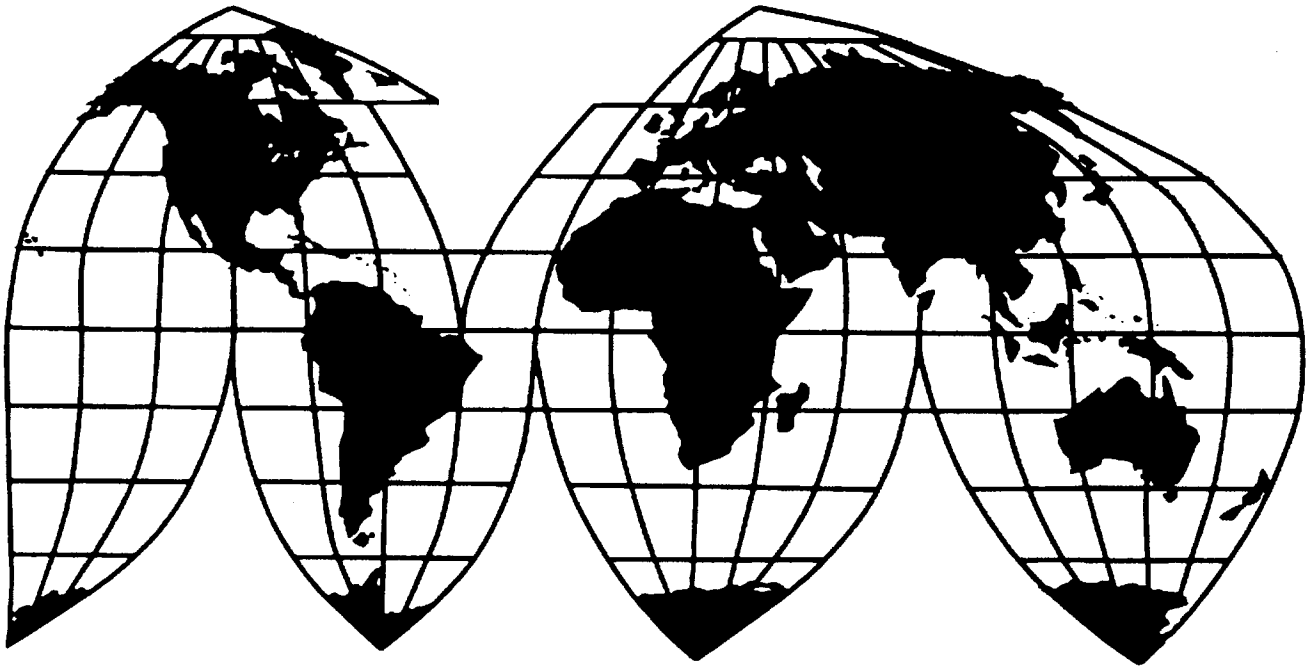
Live Swine From Canada

Investigations Nos. 701-TA-438 (Preliminary) and
731-TA-1076 (Preliminary)

Publication 3693 **May 2004**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-438 (Preliminary) and 731-TA-1076 (Preliminary)

LIVE SWINE FROM CANADA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured 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 are alleged to be subsidized by federal and provincial governments in Canada and sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On March 5, 2004, a petition was filed with the Commission and Commerce by the National Pork Producers Council, 8 state associations, and 119 individual pork producers, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of live swine from Canada. Accordingly, effective March 5, 2004, the Commission instituted antidumping and countervailing duty investigations Nos. 701-TA-438 (Preliminary) and 731-TA-1076 (Preliminary).

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

Notice of the institution of the Commission's investigations and of a public conference 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 March 16, 2004 (69 FR 12347, March 16, 2004). The conference was held in Washington, DC, on March 26, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of live swine from Canada that allegedly are subsidized and sold in the United States at less than fair value ("LTFV").

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. BACKGROUND

This petition was filed on behalf of the National Pork Producers Council (NPPC), eight state pork associations, and 119 pork producers. Live swine at all stages of development are included in these investigations. Excluded from the scope are U.S. Department of Agriculture ("USDA") certified purebred breeding swine. U.S. purchasers of live swine consist of packers and finishing operations. Producers maintain any of several types of operations. Such operations include firms that raise pigs from birth to weaning ("farrow"); firms that raise pigs from weaning to feeder ("nursery"); firms that raise pigs from birth to feeder pigs ("farrow to nursery"); firms that raise feeder pigs to slaughter weight ("growing/finishing"); and firms that raise pigs from birth to slaughter weight ("farrow to finish"). There were 73,600 U.S. firms known to be producing live swine in 2003.[3] The six largest U.S. producers in 2003 included Smithfield, Premium Standard Farms, Seaboard, Prestage, Cargill, and Iowa Select, which together accounted for slightly less than 30 percent of U.S. production.[4] Virtually all of the remaining largest U.S. producers each accounted for less than one percent of U.S. production.[5] Swine are raised throughout the United States, but production and inventories have historically been concentrated in the Corn Belt States to take advantage of low feed costs.[6] The Commission received questionnaire responses from 75 producers and 23 state pork associations.[7]

Based on head count of swine, domestic production accounted for more than ninety percent of the U.S. market for live swine over the period examined.[8] Based on weight of swine, domestic producers accounted for more than 96 percent of the U.S. market over the period of investigation. Nearly all of the

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[1] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

[2] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] Confidential Report ("CR") at III-1, Public Report ("PR") at III-1.

[4] CR/PR at III-1.

[5] CR/PR at III-1.

[6] CR/PR at III-1.

[7] CR/PR at Tables III-3 and III-4. The Commission received questionnaire responses with usable financial data from 67 domestic producers representing approximately 38 percent of U.S. production. Id. at VI-4.

[8] CR/PR at Table IV-3.

remainder of the live swine market was supplied by subject imports, which increased their market share between 2001 and 2003 from 5.4 percent to 7.4 percent (by number of pigs) and from 2.8 percent to 3.2 percent (by weight). Apparent U.S. consumption of live swine grew by 3 percent measured by head and by 3.9 percent measured by weight from 2001 to 2003.[9]

Live swine from Canada were the subject of one prior original countervailing duty investigation and the initiation of a five-year review but are not currently subject to a countervailing duty order.[10]

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that 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."[11] 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."[12] 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 . . . ."[13]

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.[14] No single factor is dispositive, and the Commission

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[9] CR/PR at Table C-1.

[10] In July 1985, the Commission determined that an industry in the United States was materially injured by reason of imports of live swine from Canada. Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985). This original investigation also encompassed a second like product, fresh, chilled, and frozen pork, on which the Commission made a negative determination.

The Commission's final affirmative determination with respect to live swine from Canada was appealed in Alberta Pork Producers' Mktg. Bd. v. United States, 669 F. Supp. 445 (CIT 1987). The CIT remanded the Commission's determination in part to reevaluate the evidence concerning price elasticities comprising both live swine and pork data relied on by the Commission. Subsequently, the CIT affirmed the Commission's affirmative determination on remand. 683 F. Supp. 1398 (CIT 1988), aff'g USITC Pub. 2108 (Aug. 1988).

On August 15, 1985, Commerce issued a countervailing duty order with respect to all live swine from Canada. 50 Fed. Reg. 32880 (Aug. 15, 1985). The merchandise subject to the original order is the same as that included in the scope of the current investigations. On August 29, 1996, Commerce partially revoked the order with respect to slaughter sows and boars, and weanlings, effective April 1, 1991. 61 Fed. Reg. 45402 (Aug. 29, 1996). Thus, the scope of the five-year review did not include slaughter sows and boars, and weanlings (i.e., swine weighing up to 27 kilograms or 59.5 pounds); these swine are included in the scope of the current investigations. Compare 64 Fed. Reg. 34209 (June 25, 1999) to 69 Fed. Reg. 19816 and 19819 (Apr. 14, 2004). The Commission instituted a five-year review in December 1998 and subsequently decided to conduct a full five-year review. 63 Fed. Reg. 66570 (Dec. 2, 1998) and 64 Fed. Reg. 12352 (Mar. 12, 1999). Prior to the completion of the Commission's five-year review, Commerce made a negative final determination of the likelihood of continuation or recurrence of a countervailable subsidy which resulted in termination of the Commission's five-year review on October 29, 1999. 64 Fed. Reg. 60301 (Nov. 4, 1999) and 64 Fed. Reg. 60831 (Nov. 8, 1999).

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(4)(A).

[13] 19 U.S.C. § 1677(10).

[14] 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

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[15] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[16] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[17]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as:

> all live swine from Canada except U.S. Department of Agriculture ("USDA") certified purebred breeding 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 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, 0103.92.0090.[18]

The subject merchandise is all live swine regardless of breed or size, for slaughter, as well as weanlings and feeder swine imported for feeding and finishing prior to slaughter. Sows and boars imported for breeding (if not purebred) and for slaughter are also included within the scope. Excluded from the scope of the investigations are imports of purebred breeding swine.

There are three primary developmental stages for swine prior to slaughter. The first stage consists of baby pigs or piglets, which generally are weaned from their mothers at an age ranging from 14

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[14] (...continued)
(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, where 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).

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

[16] 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.").

[17] 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 where Commerce found five classes or kinds).

[18] Live Swine from Canada, 69 Fed. Reg. 19815, 19816 (Apr. 14, 2004) ("antidumping determination"); Live Swine from Canada, 69 Fed. Reg. 19818, 19819 (Apr. 14, 2004) ("countervailing duty determination"). Prior to June 30, 2003, HTSUS subheadings 0103.91.0010, 0103.91.0020, and 0103.91.0030 were all included under one heading, HTSUS 0103.91.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

to 21 days and weights between 10 to 15 pounds.[19] The second stage consists of weanling pigs, which typically includes pigs weaned and removed from their mothers and kept in heated nurseries with raised pens and slotted floors.[20] Pigs typically are at the weanling stage from the time of weaning until they are 6 to 10 weeks (42 days to 70 days) of age and 40 to 60 pounds, at which point they are ready to be placed in finishing operations.[21] The third stage consists of feeder pigs, which are typically fed or finished until they reach between 166 to 180 days of age and typically weigh between 240 to 280 pounds, at which point they are ready for slaughter.[22]

C. Analysis

In these preliminary determinations, we have considered two 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.[23]

1. Weanlings, Feeder Pigs and Market Hogs

Because weanlings and feeder pigs are simply swine at earlier stages in the production process, we apply the semifinished products analysis in deciding whether weanlings and feeder pigs are the same like product as market hogs.[24] Under the semifinished products analysis, the Commission examines:

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[19] CR at I-7 and I-10, PR at I-5 and I-7. While most baby pigs (63.9 percent) were weaned at 16-20 days of age, those raised in small operations were more likely to be weaned at an older age than those raised in large operations. The weaning age exceeded 27 days for 56 percent of operations with less than 250 sows while the weaning age was 20 days or less for 93 percent of operations with 500 or more sows; overall, 79 percent of all pigs were weaned at less than 21 days of age. See *Ag 101, Pork Production*, U.S. Environmental Protection Agency, found at *http://www.epa.gov/agriculture/ag101/pork.html*, retrieved April 23, 2004, and augmented with data from USDA, APHIS, VS, *Swine 2000, Part I: Reference of Swine Health and Management in the United States, 2000*, August 2001.

[20] CR at I-7, PR at I-5.

[21] CR at I-7, PR at I-5. The average age for weanlings to leave the nursery and enter finishing operations is 63 days, with a range on average of 62 days for small operations (inventory less than 2,000 pigs) to about 65 days for operations with inventory of 10,000 or more pigs. See *Ag 101, Pork Production*, U.S. Environmental Protection Agency, found at *http://www.epa.gov/agriculture/ag101/pork.html*, retrieved April 23, 2004, and augmented with data from USDA, APHIS, VS, *Swine 2000, Part I: Reference of Swine Health and Management in the United States, 2000*, August 2001. Pigs at the weanling stage may be raised in the specialized isowean or segregated-early-weaned ("SEW") process where they are isolated from pigs of other ages and from other source herds. CR at I-10.

[22] CR at I-8, PR at I-5-6. Pigs are at the feeder or grower/finisher stage for about 100 to 120 days. Id.

[23] Petitioners contend that "it is not appropriate to break out separate like products for slaughter sows and boars, and weanlings and feeder pigs," suggesting use of the "semifinished product analysis." Petitioners' Postconference Brief at 2-4 and Exhibit 1 at 1-3. Canadian producers agree with Petitioners that this case involves a single like product. Canadian Producers' Postconference Brief at 3 and Exhibit 1 at 1-2. The Canadian Pork Council (CPC) contends that the Commission should use the traditional like product analysis to identify four separate domestic like products – hybrid breeding stock, sows and boars for slaughter, market hogs, and weanlings and feeder pigs. CPC's Postconference Brief at 4-17. A group of Canadian exporters and U.S. importers (BQZ) urges the Commission to find, using the traditional like product analysis, sows and boars as a separate domestic like product from weanlings, feeder pigs, and slaughter barrows and gilts. BQZ's Postconference Brief at 10-13 and Response to Questions from Commission Staff at 1-2.

[24] The semifinished products analysis has been used to analyze agricultural products, particularly whether animals raised for food should be treated as distinct domestic like products at different stages of their development. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC

(continued...)

(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.[25]

Weanlings and feeder pigs are dedicated to the progression to the next stage of their development and ultimately become market hogs for slaughter.[26] Weanlings and feeder pigs differ from market hogs in that they have not yet achieved optimal slaughter weight. Consequently, the "processing" of weanlings and feeder pigs into market hogs consists principally of feeding and housing the animals.[27] The ultimate use of swine at all stages is to be slaughtered for pork.[28] Swine possess their essential characteristics at birth based primarily on breed and sex.[29] These essential characteristics are enhanced during the development process by the addition of body weight and feeding, environmental conditions, and age at maturity. Swine at different stages of production are not functionally or economically interchangeable because they have not reached their optimal market weight. However, the Commission has found that it would not be expected that a semifinished product that is dedicated for use as a finished product would possess the attributes of and encompass all the functions of a finished product.[30] Swine of similar size, age, and class, however, are highly substitutable regardless of the production system through which they have been produced, or other special characteristics that they may possess.[31]

Customers and producers perceive one end use for weanlings and feeder pigs – to be sold as market hogs – and one ultimate commercial market for live swine – the market for the end product, pork. While integrated farrow-to-finish operations produce baby pigs and raise them until they are ready for slaughter,[32] 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.[33] Thus, it has become more typical for swine to be sold at the weanling or feeder pig stage of development. However, the stage at which swine are marketed differs among various types of operations and may vary for an individual operation, depending on variables such as facilities, weather, economic factors, and prices for grain and/or swine. Finally, swine at all stages of development are sold primarily from producer to

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[24] (...continued)
Pub. 3155 at 6-7 (Feb. 1999) (Commission found, using the semifinished product analysis, that cattle at different stages of development are dedicated to progression to the next stage and ultimately slaughter, with their essential characteristics embodied at birth, and having no independent uses, although cattle at different stages are not interchangeable; consequently, Commission included all four stages in a single like product).

[25] See, e.g., Frozen and Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1068 (Preliminary), USITC Pub. 3672 at 13 (February 2004); Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 at 7 (August 2002).

[26] CR at I-7-9, PR at I-5-7.

[27] CR at I-7-9, PR at I-5-7.

[28] Hybrid breeding swine, sows and boars are used for breeding purposes, and eventually become cull swine for slaughter.

[29] CR at I-5-7, PR at I-3-5.

[30] See Live Cattle, USITC Pub. 3155 at 6 (Feb. 1999); Fresh and Chilled Atlantic Salmon from Norway, USITC Pub. 2371 at n.38.

[31] CR at I-14, PR at I-9.

[32] CR at I-6, I-14-16, PR at I-4, I-10-11. One study estimates that integrated farrow-to-finish operations account for almost 35 percent of producers with 100 or more pigs, with a similar share of producers specializing in the growing/finishing phase. CR at I-14, PR at I-10, *citing* USDA, APHIS, VS, *Swine 2000*.

[33] CR at I-6 and I-14, PR at I-4-5 and I-10.

producer/processor and not through public auction.[34] Regardless of the stage at which first marketed, however, all live swine are eventually sold for slaughter.[35]

The transformation of baby pigs or piglets into market hogs is significant, in the sense that the animal increases from 16- to 28-fold in weight from weaned pig to slaughter hog. However, the additional processes are not particularly complex technologically, in that they primarily involve providing the appropriate feed for swine at each stage of development. Indeed, the primary expense for an operator at any stage of production beyond the farrowing stage appears to be the cost of feed.[36]

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, for the purposes of these preliminary determinations we include weanlings and feeder pigs in the same like product as other live swine.

2. Sows and Boars[37]

In considering whether sows and boars should be included in the same domestic like product as all live swine, including weanlings, feeder pigs, and market hogs (i.e., barrows and gilts for immediate slaughter), we use the "traditional" six-factor domestic like product analysis.

Physical Characteristics and End Uses. 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.[38] A barrow is a male hog that has been castrated when young, and before developing the secondary physical characteristics of a boar; a gilt is a young female hog that has not produced young or reached an advanced stage of pregnancy.[39] Slaughter sows and boars are used for breeding purposes while barrows and gilts have not been bred before being marketed for slaughter. Sows

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[34] CR at I-15 and II-5-6, PR at I-10 and II-4. USDA reported that less than 3 percent of market hogs were sold through public markets (auctions and terminals). CR at II-6, PR at II-4.

[35] Weanling and feeder swine are, for the most part, sold directly from farm to farm, based on long-term contracts or existing relationships. CR at I-15 and II-5, PR at I-10 and II-4. Imported Canadian feeder pigs are generally sold through the same or similar market channels as domestically produced feeder pigs. CR at II-5, PR at II-4. Market hogs are typically sold directly from producers to packers, with about 86 percent of non-packer-owned market hogs sold under some form of market agreement. CR at I-15, PR at I-10. Packer-owned hogs, which account for 18.1 percent of all slaughter hogs, are sold at a transfer price. CR at V-4.

[36] CR at II-15, PR at II-10, CR/PR at Table VI-1.

[37] CPC proposed that the Commission define hybrid breeding stock as a separate domestic like product. CPC's Postconference Brief at 4-6. Hybrid breeding stock are gilts and male swine (before castration) and can be sold as market hogs when they reach optimal slaughter weight rather than be held for breeding. (Gilts reach optimal slaughter weight before reaching puberty.) If bred, hybrid breeding stock are sows and boars, and will become culled sows and boars for slaughter when no longer used for breeding purposes. Hybrid breeding stock, similar to sows and boars, are maintained in breeding and farrowing facilities until they are culled for slaughter. CPC notes that 40 to 50 percent of breeding stock is culled every year in both Canada and the United States. CPC's Postconference Brief at 4-6. But like weanlings and feeder pigs, hybrid breeding stock may also be dedicated to the production of market hogs. Thus, hybrid breeding stock are, for the most part, physically indistinguishable from market hogs of the same size and age, with their primary purpose being replacement of breeding stock in commercial herds. CR at I-12, PR at I-8-9. We find there is no basis to consider hybrid breeding stock at all stages of development as a separate domestic like product from other live swine at similar stages of development.

[38] CR at I-5, PR at I-3.

[39] CR at I-5, PR at I-3.

and boars typically weigh one and a half to two times the weight of market hogs.[40] Virtually all barrows, gilts, slaughter sows and boars, as well as weanlings and feeder pigs, have the same ultimate end use: all are eventually slaughtered for meat.[41]

Interchangeability. While boars and barrows are not interchangeable for purposes of the breeding process, a gilt may be held to become a sow for breeding rather than slaughtered as a market hog. Interchangeability of sows and boars, on the one hand, and barrows and gilts, on the other, for purposes of slaughter are limited. The development of secondary sex characteristics associated with additional growth and maturity in sows and boars affects body composition (lean-to-fat ratio) and other meat characteristics (taste and odor) that make the meat from sows and boars undesirable for fresh table pork.[42] Thus, meat from slaughter sows and boars is generally not of the same quality as meat from barrows and gilts; consequently, slaughter sows and boars are more likely to be used for highly processed products such as sausages rather than for table cuts such as loins and hams.[43]

Channels of Distribution. Nearly all live swine sold for slaughter are purchased directly from producers by processing companies.[44] The processing companies for sows and boars and for market hogs differ. Slaughter sows and boars may be sold through brokers to processors for slaughter.[45]

Manufacturing Facilities, Production Processes, and Employees. Sows and boars are maintained in breeding and farrowing facilities. As barrows and gilts are raised, they also spend time in farrowing facilities, as well as nurseries, and growing/finishing facilities. Moreover, there is a significant degree of overlap among operations in all production stages, with farrow-to-finish operations still accounting for almost 35 percent of U.S. production.[46]

Producer and Customer Perceptions. There is evidence that customers perceive differences between slaughter sows and boars, on the one hand, and barrows and gilts, on the other.[47] For example, sows and boars typically weigh 400 to 600 pounds (as opposed to a slaughter weight of 240 to 280 pounds for barrows and gilts) and are slaughtered in facilities specifically designed to slaughter larger animals.[48] Moreover, packing houses that purchase sows and boars generally specialize in particular products such as sausages or highly-flavored products and process only (or virtually only) sows and boars.[49]

Price. The data in the record indicate that packers significantly discount the price for sows and boars per hundredweight compared to the price for normal slaughter hogs.[50] However, the price of sows and boars must track closely with the price of market hogs because a sausage maker can easily substitute meat from market hogs for meat from sows and boars if the price of sows and boars does not decrease when the price of market hogs decreases.[51]

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[40] CR at I-15, PR at I-10.

[41] CR at I-10-12, PR at I-7-9.

[42] CR at II-3, PR at II-2. The hogs' weight gain after maturity consists of more fat than muscle, and various characteristics of the meat are altered that make it unsuitable for fresh pork cuts, or processing into ham and bacon. CR at I-15, PR at I-10.

[43] CR at I-11, I-15, and II-3, PR at I-8, I-10 and II-2. In any final phase investigations, we intend to explore the extent to which meat from market hogs is used for the same products as meat from sows and boars.

[44] CR at II-6, PR at II-4.

[45] CR at I-16, PR at I-10-11; BQZ's Postconference Brief at 11.

[46] CR at I-14, PR at I-10, *citing* USDA, APHIS, VS, *Swine 2000*.

[47] CR at I-15, PR at I-10.

[48] CR at II-3, PR at II-2.

[49] CR at I-15 and II-3, PR at I-10 and II-2; BQZ's Postconference Brief at 12-13.

[50] CR at I-16, PR at I-11. BQZ indicated that the prices for slaughter sows and boars are about 10 to 12 cents less a pound than for slaughter barrows and gilts. BQZ's Postconference Brief at 13.

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

In summary, 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 the channels of distribution are somewhat similar. Based on these factors, for the purposes of these preliminary determinations we include sows and boars in the same domestic like product as other live swine. We will continue to explore this issue in any final phase investigations. We therefore define the domestic like product as all live swine coextensive with the scope of the investigations for the purpose of these preliminary determinations.

D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product. . . ."[52] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[53]

We consider two issues in these investigations concerning the definition of the domestic industry: (1) whether certain types of operations engage in sufficient production-related activity to be considered members of the domestic industry; and (2) whether, under the statutory related parties provision, appropriate circumstances exist to exclude certain domestic producers that import subject live swine, purchase subject imports, or have corporate relationships with exporters or importers of subject live swine.

1. Including Nursery and/or Growing/Finishing Operations in the Domestic Industry

The parties agree that nursery and finishing operations for live swine each engage in sufficient production-related activity to be included in the domestic industry, regardless of the country of origin of the weanlings and feeder pigs.[54]

To assess whether a firm qualifies as a domestic producer, the Commission has analyzed the nature and extent of a firm's production-related activities in the United States.[55] Based on the

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[52] 19 U.S.C. § 1677(4)(A).

[53] 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).

[54] Petitioners' Postconference Brief, Exhibit 1 at 3-4; Canadian Producers' Postconference Brief, Exhibit 1 at 2-8 and 21.

[55] The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;
(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation.

See, e.g., Live Cattle, USITC Pub. 3155 at 8 (Feb. 1999) (Commission found that operations at each stage of

(continued...)

information in the record of these preliminary phase investigations we define the domestic industry to include all operators involved in the production of the domestic like product, whether engaged in one or several of the stages of hog production.

There are four stages involved in hog production: (1) breeding and gestation, which involves breeding females and their maintenance during pregnancy; (2) farrowing, which involves the birth of baby pigs and their care until weaning;[56] (3) nursery, which involves the care of pigs from weaning until they weigh 40 to 60 pounds; and (4) growing/finishing, which involves feeding hogs from the nursery weight of 40 to 60 pounds to slaughter weight of 240 to 280 pounds.[57] There is a significant degree of overlap between operations in all production stages.[58] Hog producing operations can include: (1) farrow-to-finish producers (breeding to slaughter), which produce market hogs; (2) farrow-to-feeder pig producers (breeding, farrowing and nursery), which produce feeder pigs; (3) farrow-to-weaning producers (breeding and farrowing), which produce weanlings; (4) weanlings-to-feeder pig producers (nursery only), which produce feeder pigs; and (5) feeder pig-to-finish pig producers (growing/finishing only), which produce market hogs.[59]

Nurseries raise weaned pigs (weanlings) from about 3 weeks and 10 to 15 pounds until 6 to 10 weeks and about 40 to 60 pounds.[60] Nurseries are highly controlled environments, which are heated and ventilated to maintain optimal temperatures of as high as 85 degrees at weaning and gradually declining to 70 degrees as the weanlings grow.[61] Pigs leaving the nursery go to the growing/finishing stage.

Growing/finishing operations raise feeder pigs from 6 to 10 weeks and about 40 to 60 pounds until they achieve market weight of 240 to 280 pounds at about 166 to 180 days.[62] Growing/finishing operations primarily provide feed, but also ventilation to keep the finishing barns at the optimal temperature of 60-70 degrees.[63] Ventilation to cool facilities is of greater concern to a growing/finishing producer than heating costs due to the large amount of body heat generated by the feeder pigs.

The technical expertise involved in the growing/finishing operation may be less than at the nursery stage, but it appears to vary depending on whether the operation involves early-weaning production or more traditional weanling and feeder pig production.[64]

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[55] (...continued)
development play an integral and roughly equivalent role in the progression from calves to fed cattle and thus included cow-calf operators, stocker/yearling operators, and feedlot operators in domestic industry); Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 at 10 and 11 (April 2002) (packers included in the industry along with growers); Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 at 3-7 (July 1985) (Commission found two like products--live swine, and fresh, chilled, or frozen pork--but did not discuss whether segments of production of live swine, such as feeder and slaughter hogs, should be separate like products).

[56] Operations involved in farrowing also supply culled sows and boars for slaughter. CR at I-6, PR at I-4.

[57] CR at I-6-8, PR at I-4-5.

[58] Approximately 35 percent of producers with 100 or more pigs have farrow-to-finish operations with about the same percentage of producers involved in the growing/finishing stage only. CR at I-14, PR at I-10, *citing* USDA, APHIS, VS, *Swine 2000.*

[59] CR at I-6, PR at I-4.

[60] CR at I-7, PR at I-5.

[61] CR at I-7, PR at I-5. Nurseries generally keep weanlings in raised pens with slotted floors to keep them dry. Id.

[62] CR at I-8, PR at I-5.

[63] CR at I-8, PR at I-5.

[64] CR at I-13, PR at I-9.

Feed costs are the largest single cost of hog production.[65] For a farrow-to-finish producer producing a market hog, feed costs are estimated to account for 55 percent of total costs, with variable costs, including feed, estimated at 80 percent of total costs.[66] While the cost structure of more specialized facilities varies, feed costs for weanling production (nursery stage) in Iowa were 26 percent of total costs.[67] For growing and finishing a 50-pound feeder pig, feed accounted for 40 percent of total costs, acquiring the feeder pig accounted for 38 percent of total costs, with variable costs, including the feed and the pig, accounting for 88 percent of total costs.[68]

The operations involved in each of the stages of development appear to play an integral, and somewhat equivalent, role in the progression from weaned pig to feeder pig to market hog. Based on these facts, we find that the nursery operations and the growing/finishing operations, as well as the overlapping operations, engage in sufficient production-related activity for inclusion in the domestic industry. Thus, we define 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.

2. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). 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.[69] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[70]

While Petitioners indicated that they "are unaware of any large domestic producers that are related to Canadian live swine producers," they acknowledge that the number of domestic producers using imported weanlings and feeders is growing, but those producers constitute a minority of total

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[65] CR at II-15, PR at II-10, CR/PR at Table VI-1 (Commission questionnaire responses reported that feeding costs accounted for 45.5 percent of net sales in 2003).

[66] CR at II-15, PR at II-10. Variable costs include expenditures for feed, veterinary and health, fuel, repairs, utilities, bedding, marketing and labor. CR at II-15, PR at II-10.

[67] CR at II-15. Variable costs at the weanlings stage, including feed, were 53 percent of total costs. Fixed costs include machinery, facilities, breeding stock depreciation and replacement, interest and insurance. CR at II-15, PR at II-10.

[68] CR at II-15, PR at II-10.

[69] 19 U.S.C. § 1677(4)(B).

[70] 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 at 14 n.81 (Feb. 1997).

domestic production.[71] Petitioners contend that domestic producers reduce costs by purchasing imported weanlings and feeders rather than farrowing pigs themselves.[72] Nevertheless, Petitioners contend that there is no reason to exclude related producers from the domestic industry because such exclusion would not change the financial condition of the domestic industry significantly.[73]

Canadian Producers acknowledge that there are certain U.S. finishing operations that have an ownership interest in Canadian sow barns (that produce isoweans) and that there are certain U.S. hog producers that also import slaughter hogs from Canada.[74] Nevertheless, Canadian producers do not believe that appropriate circumstances exist to exclude any U.S. producers from the U.S. industry. In particular, they maintain that the primary interest of isowean and feeder pig finishers lies in domestic production and not in importation.

The CPC likewise indicated that "[a]s in *Cattle*, the Commission should recognize that the circumstances in this investigation, particularly the large number of domestic producers, do not compel any exclusions of domestic producers as related parties."[75]

The record indicates that at least nine U.S. producers imported or purchased imports of live swine between 2001 and 2003, and thus are potentially subject to exclusion under the related parties provision. Of these firms, six purchased imports[76] and three directly imported live swine from Canada.[77] The record does not indicate whether any of these firms are related to Canadian hog producers in the corporate or ownership sense. In these preliminary phase investigations, we lack evidence of the degree to which U.S. producers have ownership interests in Canadian facilities that export live swine to the United States. We intend to examine this issue more closely in any final phase investigations.

The available data concerning the three related parties and other six potential related parties[78] of whom we are currently aware indicate that each firm's domestic production was substantially greater than the volume of swine from Canada that they imported or purchased. The producers cited varying reasons as to why they imported or purchased subject live swine.[79]

Based on the limited information in the record of these preliminary phase investigations, we do not find it appropriate to exclude any of the nine producers that we have identified as potential candidates for exclusion from the domestic industry. No party disputed inclusion of these producers and we have

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[71] Petitioners' Postconference Brief at 4 and Exhibit 1 at 5-6.

[72] Petitioners' Postconference Brief, Exhibit 1 at 5-6.

[73] Petitioners' Postconference Brief, Exhibit 1 at 6.

[74] Canadian Producers' Postconference Brief at 4 and Exhibit 1 at 8-11.

[75] CPC's Postconference Brief at 24, n.73.

[76] The six firms that purchased subject imports are: ***. CR/PR at Table III-8.

[77] The three firms that directly imported subject live swine are: ***. CR/PR at Table III-8.

[78] 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. From the record in these preliminary investigations, the degree to which the six producers were responsible for the importer's purchases, and whether the importer's purchases were substantial, are unclear.

[79] CR/PR at Table III-8 nn.1-8.

not excluded related parties in similar circumstances in the past.[80] [81] Thus, for purposes of these preliminary determinations, we define the domestic industry as all domestic producers of live swine.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. General Legal Standards

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[82] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[83] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[84] In assessing whether there is a reasonable indication that 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.[85] 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."[86]

For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing live swine is materially injured by reason of imports of live swine from Canada.

B. Information Available in These Preliminary Investigations

The statute directs the Commission to make its preliminary determination of whether there is a reasonable indication that an industry in the United States is materially injured by reason of imports of subject merchandise "based on the information available to it at the time of the determination. . . ."[87]

The domestic live swine industry is large and dispersed. USDA data indicate that 73,600 enterprises (including breeding, farrowing, nursery, and/or growing/finishing operations) produced live

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[80] See Live Cattle, USITC Pub. 3155 at 10; Elemental Sulfur from Canada, Inv. No. AA1921-127 (Review), USITC Pub. 3152 at 10 (Jan. 1999).

[81] We also note that the domestic swine industry involves a very large number of operations and thus is not concentrated. Because, with the exception of *** listed among the seven largest domestic producers and any single domestic producer of live swine accounts for only a very small share of domestic production, the amount of domestic production attributable to a related domestic producer is likely to be very small. CR at III-3, PR at III-3, CR/PR at Tables III-2 and VI-3. For example, while the largest producer, Smithfield, accounted for *** of U.S. production in 2003, with the next five largest producers accounting for *** combined, virtually all of the remaining largest U.S. producers each accounted for well under one percent of U.S. production. CR/PR at III-1 and Table III-2. Of the 73,600 domestic live swine enterprises in 2003, 44,285 were reported to have 1-99 head of swine; 11,615 were reported to have 100-499 head of swine; 5,687 had 500-999 head; 4,866 had 1,000-1,999 head; 4,877 had 2,000-4,999 head; and 2,270 had 5,000 or more head. CR/PR at Table III-2.

[82] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[83] 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).

[84] 19 U.S.C. § 1677(7)(A).

[85] 19 U.S.C. § 1677(7)(C)(iii).

[86] 19 U.S.C. § 1677(7)(C)(iii).

[87] 19 U.S.C. § 1673b(1).

swine in the United States in 2003.[88] Although there are a few large enterprises with high volumes of production, most of the live swine producers are small firms.[89] In these investigations, as in other agricultural investigations, the Commission's normal practice of forwarding questionnaires to all domestic producers of the proposed like product is impractical. The Court of International Trade (CIT) in Chung Ling acknowledged that it would be "impractical given the time constraints for completing its investigation" for the Commission to attempt to obtain complete coverage utilizing questionnaires for "an industry comprised of more than 1,000 producers," even in a final investigation.[90] Thus, the Commission has relied on secondary sources for much of the necessary domestic producer data.

The statute provides that the Commission may rely on "secondary information" as long as, to the extent practicable, it corroborates the information from independent sources that are reasonably at its disposal.[91] The Commission has relied on secondary information in other investigations when obtaining information from questionnaires was impractical or the information obtained was incomplete,[92] and the Commission's use of secondary information has been upheld by the courts.[93]

In these investigations, the Commission has reliable and timely secondary sources for most of the necessary domestic producer data. The Commission did, however, send questionnaires to 80 domestic producers and to all state associations representing U.S. swine operations, and to 90 importers.[94] The Commission received usable financial data from 67 domestic producers of live swine representing approximately 38 percent of live swine production in the United States in 2003.[95] Of the 90 reported importers of live swine, the Commission received 25 questionnaire responses.[96] In the preliminary phase of these investigations, then, the staff report uses publicly available official statistics of the USDA for certain trade related indicators such as production, shipments, and U.S. apparent consumption, but it presents certain financial data compiled from Commission questionnaire responses in addition to USDA

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[88] CR/PR at III-1 and Table III-1. There was a decline in the number of live swine enterprises of 9.4 percent from 81,220 enterprises in 2001 to 73,600 enterprises in 2003. Id.

[89] CR/PR at III-1 and Table III-2. In 2003, the largest producer, Smithfield, accounted for *** of U.S. production, with the next five largest producers accounting for *** combined: ***. Id. at III-1. Virtually all of the remaining largest U.S. producers each accounted for well under one percent of U.S. production. Id.

[90] Chung Ling Co., Ltd. v. U.S., 805 F. Supp. 45, 49 (Ct. Int'l Trade 1992).

[91] 19 U.S.C. § 1677e(c). In this case, the secondary information comes from the type of independent sources that would normally be used for corroboration. The statute also directs the Commission to "use the facts otherwise available" if the necessary information is not available on the record. 19 U.S.C. § 1677e(a).

[92] In prior cases involving domestic producers too large in number for adequate coverage, such as investigations of wheat, softwood lumber, cattle, honey, swine, or sweaters, the Commission has either relied on secondary sources for domestic production data or forwarded domestic producer questionnaires to a sampling of representative producers. See, e.g., Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 at 8, n.19 (1985); Live Cattle, USITC Pub. 3155 at 16 (Feb. 1999); Fresh Tomatoes from Mexico, Inv. No. 731-TA-747 (Preliminary), USITC Pub. 2967 (May 1996); Honey from the People's Republic of China, Inv. No. 731-TA-722 (Preliminary); Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 at 20 (May 2002).

[93] See, e.g., Live Cattle, USITC Pub. 3155 at 16 (Feb. 1999), aff'd, Ranchers-Cattlemen Action Legal Fund, 74 F. Supp. 2d 1353, 1381 (Ct. Int'l Trade 1999); Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), aff'd, Alberta Pork Producers' Mktg. Bd. v. United States, 669 F. Supp. 445, 460 (Ct. Int'l Trade 1987). While the CIT has supported use of secondary source data when the Commission determined that questionnaire responses did not provide an adequate basis for making its determination, it has cautioned that the Commission must have adequate and representational information for all issues critical to its determination from either source. Chung Ling, 805 F. Supp. at 49 and 50.

[94] CR/PR at III-1 and IV-1.

[95] CR/PR at VI-1 and VI-4.

[96] CR/PR at IV-1.

sources,[97] and uses public sources in addition to data obtained in questionnaire responses for information on imports.[98]

The Commission offered parties the opportunity to provide any comments on the staff report's use of secondary data sources. All parties generally supported the use of the secondary sources, particularly USDA data and official import statistics.[99] In any final phase investigations, however, we intend to seek purchaser pricing data and additional data from domestic producers to the extent practicable.

C. Conditions of Competition

The following conditions of competition are pertinent to our analysis of the impact of live swine imports from Canada.

1. Hog Production Cycle

The hog production cycle is a pattern of expansion and contraction in the number of hogs marketed. The cycle is a significant factor affecting the price of market hogs and the profitability of producers. Relatively high market hog prices induce 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 large number of hogs will be available for slaughter. The increased supply of slaughter hogs tends to put downward pressure on prices, which reduces the incentive for producers to retain gilts and increases the incentive to cull less productive sows. Additional hogs are added 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.[100]

Historically, the hog production cycle has averaged about four years in length, including two years of expansion and two years of contraction.[101] Cycles, however, have been as short as two years and as long as seven years. In addition to this hog production cycle, there is a hog price cycle corresponding to, and interrelated with the cycle in hog production.[102]

According to petitioners, the U.S. industry is currently in the contraction phase, but recent market conditions have extended beyond the traditional parameters of the cycle such that the overwhelming majority of domestic producers of live swine were unprofitable during 2002 and 2003.[103] In the current cycle, according to Petitioners, the contraction phase was characterized by significant

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[97] We note that USDA financial data on the national swine industry are only available for calendar years 2001 and 2002, and are generally consistent with Commission questionnaire data for that period. In the final phase of these investigations, full-year 2003 data may well be available from USDA regarding the financial performance of the domestic industry.

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

[99] See, e.g., Petitioners' Postconference Brief, Exhibit 1 at 10 ("These data provide the most complete data available and are commonly relied upon by the industry.") According to Petitioners, ***; Canadian Producers' Postconference Brief, Exhibit 1 at 12-16 (they note that "there is no reason to believe that coverage would be materially better in a final investigation. In short, all the data that the Commission needs to undertake a full and complete analysis is [sic] readily available."); CPC's Postconference Brief, Attachment 6 at 1; BQZ's Postconference Brief, Response to Questions at 3 ("We agree that the USDA data [are] the best data available.").

[100] CR at II-7, PR at II-5.

[101] CR at II-7-8, PR at II-5-6

[102] CR at II-7-8, PR at II-5-6.

[103] Petitioners' Postconference Brief at 5.

financial losses and the growth in imports from Canada, which factors have forced U.S. producers to reduce their breeding herd to historically low levels.[104] [105] Respondents argue that the production effect associated with the hog cycle is more muted than in the past, because the industry has become more concentrated.[106]

2. Demand

The demand for live swine is ultimately derived from the demand for pork and pork products.[107] World demand for pork affects the hog cycle. U.S. consumption of pork is increasing and world demand for U.S. pork exports is increasing even faster. The United States and Canada are the two largest pork exporters in the world outside of the European Union.[108] Conditions in markets for other meat such as chicken and beef also affect the demand for pork.[109]

3. Supply

Live swine from the United States and Canada account for nearly all of the U.S. market. There were virtually no shipments of nonsubject imports over the period of investigation.[110] There has been growing specialization in hog production such that farrow-to-finish operations are less prevalent now than 10 years ago.[111] In 2003, farrow-to-finish operations and feeder-to-finish operations each accounted for approximately 35 percent of U.S. production operations with 100 or more pigs.[112] U.S. production is becoming more concentrated, with large operations producing live swine on multiple farms. In 2002, nearly half of U.S. live swine production was accounted for by operations with more than 50,000 head.[113]

Factors such as the prevalence of disease in weanlings and feeder pigs, the potentially healthier condition of Canadian weanling and feeder pigs, and the labor-intensive nature of farrowing, may have contributed to the restructuring of the U.S. industry and its increased use of imported feeder pigs and weanlings. Imports of feeder pigs increased substantially over the period of investigation: from 3.2

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[104] Petitioners' Postconference Brief at 6.

[105] We note that recent inventories in North Carolina, Oklahoma and Utah did not follow the cyclical patterns of expansion and contraction, but demonstrated nearly continuous expansion, similar to the response of Canadian producers. CR at II-9, PR at II-6, CR/PR at Figures II-1 - II-2. In any final phase of these investigations, we invite the parties to comment on any structural changes in the industry and their bearing on the hog production cycle.

[106] See, e.g., CPC's Postconference Brief at 27-28 and Attachment 6 at 1-2.

[107] CR at II-16, PR at II-10.

[108] CPC's Postconference Brief at 25.

[109] Canadian Producers' Postconference Brief at 47-48. Respondents contend that various recent animal disease issues with respect to poultry and beef, such as BSE, have allowed U.S. and Canadian pork producers to increase market share. CPC's Postconference Brief at 27-28.

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

[111] Canadian Producers' Postconference Brief at 6-7.

[112] CR at I-14, PR at I-10, *citing* USDA, APHIS, VS, *Swine 2000*; see also William D. McBride and Nigel Key, USDA, ERS, *Economic and Structural Relationships in U.S. Hog Production*, Feb. 2003. See also Live Swine, USITC Pub. 1733 at A-7 (July 1985) ("Most U.S. swine today are produced by so-called farrow-to-finish enterprises, which combine the feeder pig production and finishing businesses into one operation.").

[113] CR/PR at VI-1 and n. 4. As U.S. live swine operations have declined from 113,590 operations in 1998 to 76,250 operations in 2002, a 33 percent decrease, the number of operations with 5,000 or more animals has increased from 1,050 to 1,170 operations; these operations also have increased their share of hog inventory from 55 percent to 70 percent. CR at II-6 and Tables III-1 and III-2.

million head in 2001 to 5.0 million head in 2003.[114] We intend to explore further in any final phase investigations the reasons for the changes in the U.S. production operations and their use of imported weanlings and feeder pigs. We will also seek information on the relationship between the prices of live swine at the various stages of production.

In 2003, 29.8 percent of imports of live swine from Canada by head were live swine ready for immediate slaughter (weight category of 50 kg or more, i.e., 110 pounds or more) with 66.9 percent of subject imports by head at the weanling and feeder stages (including weight categories of less than 50 kg, i.e., less than110 pounds).[115] By weight the percentages were reversed: 74.8 percent of Canadian imports were ready for immediate slaughter and 17.7 percent were at the weanling and feeder stages in 2003.[116]

4. Substitutability

Live swine is a commodity product and there is a substantial degree of substitutability between domestic and Canadian products.[117] At the market hog level, swine is a price-sensitive commodity.[118] There is some evidence that Canadian live swine, at certain stages of development, have a reputation for being healthier than U.S. live swine, which creates an incentive for U.S. producers to import feeder pigs from Canada.[119]

D. Volume of Subject Imports

Section 771(7)(C) 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]

In this preliminary phase, the Commission obtained volume data based both on the number of head of live swine and on the weight of the live swine. A threshold issue is whether market share should be based on head count or weight.[121] While the trends for both sets of data are similar, they differ in

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[114] CR/PR at Table D-1.

[115] Calculated from CR/PR at Appendix D-3. We note that only since July 2003 have the weight categories in the official import statistics for weanling and feeder swine been divided into subcategories by weights of less than 7 kg (0-15 pounds), 7 kg - less than 23 kg (15-50 pounds), and 23 kg - less than 50 kg (50-110 pounds).

[116] Calculated from CR/PR at Appendix D-3.

[117] CR at II-17-18, PR at II-11-12.

[118] See, e.g., Demand Index, found at *http://agebb.missouri.edu/mkt/index.htm*, retrieved May 7, 2004.

[119] See CR at II-18, PR at II-12; Canadian Producers' Postconference Brief at 13-18; see Canadian Producers' Postconference Brief, Exhibits 11-18 for more information regarding health issues. Some diseases such as Porcine Reproductive and Respiratory Syndrome ("PRRS") can have significant effects on reproductive efficiency, which can quickly reduce capacity. CR at II-13, PR at II-9. The strains present in Canada are less virulent and more easily controlled. Canadian Producers' Postconference Brief at 13-14.

[120] 19 U.S.C. § 1677(7)(C)(i).

[121] Petitioners contend that "market share should be based on head rather than weight, and the U.S. production number should be based on number of live births" because they claim "[t]o calculate market penetration on the basis of weight would erroneously understate the impact of the weanling on the domestic live swine market by a factor of 26." Petitioners' Postconference Brief, Exhibit 1 at 4-7.

Canadian Producers contend that "subject live swine imports should be counted, and import penetration levels should be measured, *on the basis of weight*; that is, total pounds imported." They argue that it would "not make sense for the Commission to adopt an import penetration calculation methodology that, effectively, posits that all the production of a *bona fide* U.S. producer should be considered an 'imported' hog." Canadian Producers'

(continued...)

terms of magnitude. For purposes of these preliminary phase investigations, we present both in discussing our analysis. We will explore in any final phase of these investigations the issue of whether one set of data is more appropriate than the other to our analysis of apparent consumption and market shares.[122]

As measured by head, subject imports steadily increased from 5.3 million head in 2001 to 5.7 million head in 2002, then more rapidly to 7.4 million head in 2003, for an overall increase of 39.8 percent.[123] As measured by weight, subject imports fell from 711.9 million pounds in 2001 to 708.5 million pounds in 2002, before rising to 873.3 million pounds in 2003, for an overall increase of 22.7 percent.[124] Of particular note, on either basis, imports were substantially higher in the second half of 2003 as compared to the second half of 2001 and 2002.[125]

U.S. producers' U.S. shipments by head increased between 2001 and 2002, then decreased in 2003. Over the period examined, the increase in U.S. shipments by head was 0.9 percent. By weight, U.S. producers' U.S. shipments increased steadily; the total increase over the period examined was 3.4 percent.[126] Meanwhile, consumption, as measured by head, increased 3 percent over the period and U.S. producers lost 1.9 percentage points of market share to the subject imports. As measured by weight, consumption increased 3.9 percent and U.S. producers lost 0.5 percentage points of market share, while subject imports gained 0.5 percentage points.[127] Relative to production, subject imports also steadily gained over the period (as measured by head) from 5.3 percent in 2001 to 5.6 percent in 2002, then to 7.3 percent in 2003.[128]

We note that while subject imports' share of the U.S. market is relatively modest, we consider the volume of subject imports in light of the commodity nature of this agricultural product and the price sensitivity of the live swine market. The record indicates that even relatively small volumes can have significant price effects in such a market. Accordingly, for purposes of these preliminary investigations, we find the volume and market share of the subject imports to be significant. We shall further evaluate the significance of subject import volume in any final phase of these investigations.

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[121] (...continued)
Postconference Brief at 28.

BQZ suggested that "[w]hen available, data should be based on weight, especially given the large discrepancy in weight between slaughter barrows and gilts (250 pounds) and sows (400-600 pounds) and boars (500-700 pounds)." BQZ's Postconference Brief, Response to Questions at 3.

[122] Chairman Okun and Commissioner Pearson agree that the record of these preliminary investigations does not permit the Commission to make a conclusive determination as to whether the volume of imports should be measured on the basis of head count rather than weight. They note, however, the complexity inherent in measuring volume in terms of head count. Imported Canadian market hogs enter directly into competition with U.S. market hogs at packing facilities. On the other hand, imported Canadian feeder pigs become an important input for U.S. farmers who raise market hogs, which, when sold for slaughter, are considered to be a U.S. product.

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

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

[125] See INV-BB-056 (May 6, 2004).

[126] As measured by head, U.S. producers' U.S. shipments increased from 92.8 million head in 2001 to 93.6 million head in 2003. As measured by weight, U.S. producers' U.S. shipments increased from 25.2 billion pounds in 2001 to 26.0 billion pounds in 2003. CR/PR at Table IV-2.

[127] As measured by head, U.S. consumption increased from 98.1 million head in 2001 to 101.0 million head in 2003. As measured by weight, U.S. consumption increased from 25.9 billion pounds in 2001 to 26.9 billion pounds in 2003. CR/PR at Table IV-3.

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

We note that in 2003, as measured by number of head, 29.8 percent of subject imports were hogs for slaughter, while 66.9 percent consisted of weanlings and feeder pigs.[129] We shall seek more information on the significance of the stage at which imports from Canada are entering the U.S. market and will attempt to gather information on domestic producers' market share according to the nature of their production operations. Lastly, in any final phase of the investigations we intend to explore the extent to which domestic producers are affected differently by subject imports depending on the nature of their operations.[130]

E. Price Effects of 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.[131]

As indicated above, we have relied in large part on publicly available USDA price data for our analyses of price effects by reason of the subject imports.[132] The questionnaires did not solicit specific pricing data. In any final phase, we will seek additional pricing data from purchasers and importers.

Most U.S. producers and importers agree that U.S. and Canadian swine at the same stage of development are always or frequently interchangeable.[133] As this is an agricultural commodity product, price is an important factor in sales.[134] The prices of swine at various stages of development differ.[135] The nature of this industry is such that live swine producers are price takers.[136]

Live swine are priced on a carcass- or live-weight basis, negotiated price, spot market price, or some other form of marketing contract in which price is calculated based on a formula.[137] Market prices are widely disseminated and readily available from the USDA Market News Service.[138] USDA also provides timely spot prices, which comprise a low percentage of all hogs sold (13.5 percent in 2003).[139]

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[129] CR/PR at Table D-1.

[130] We note that definitions of the various types of operations are set forth in Economic and Structural Relationships in U.S. Hog Production, William D. McBride and Nigel Key, Resource Economics Division, Economic Research Service, U.S. Department of Agriculture, Agriculture Economic Report No. 818 (Feb. 2003).

[131] 19 U.S.C. § 1677(7)(C)(ii).

[132] We have also obtained some confidential data on weanling and feeder pig sales from the Canadian Live Swine Exporters Coalition in its postconference brief, as well as in questionnaire responses.

[133] CR at II-17-18, PR at II-11.

[134] CR at II-18, PR at II-12, CR/PR at Table II-1.

[135] CR at V-5, PR at V-5, CR/PR at Table V-1.

[136] CR at V-7, PR at V-6.

[137] CR at V-3, PR at V-2-3.

[138] See CR at V-5, PR at V-5.

[139] CR at V-3, PR at V-2.

The staff report sets out monthly USDA prices for slaughter hogs, sows, segregated early weaned pigs (SEWs) and other feeder pigs.[140] These prices do not differentiate between U.S. and Canadian swine. Accordingly, we have no basis on the current record to measure underselling, and in a market of this type would not generally expect to see prices from different sources diverge significantly.[141]

The trends in the pricing data are as follows. Slaughter hog prices increased during the first half of 2001, then declined irregularly during the remainder of 2001 and most of 2002, reaching a low point in September 2002 that was nearly 50 percent below the peak in mid-2001.[142] Prices increased from late 2002 until mid-2003, then declined somewhat until the end of 2003, before finally rising during the first four months of 2004 to end at a level that was approximately 10 percent below peak prices of mid-2001. Sow prices showed trends very similar to the trends for prices of market hogs. Prices for feeder pigs and SEWs also followed mostly similar trends in that prices bottomed out in September 2002 before rising somewhat during 2003 and into 2004. Prices in each segment were lower at the end of 2003 than at the beginning of 2001.

As noted above, the live swine market appears to be largely a commodity market, Canadian swine are generally substitutable for domestic swine, and price is a key purchaser factor. Under such conditions a relatively small additional volume of supply can have a significant effect on domestic prices. As noted above, between 2001 and 2003 subject imports increased absolutely and as a share of domestic consumption and production, and prices were lower at the end of 2003 than at the beginning of 2001. On an annual basis, unit sales values increased from 2002 to 2003, but no faster than the rise in production costs.[143] This fact suggests potential price suppression in the form of a cost-price squeeze. Thus, for purposes of the preliminary phase of these investigations, we find that a significant, although relatively small, volume of subject imports has depressed or suppressed domestic prices to a significant degree.[144] We recognize that some of the declines in prices may be due to the current liquidation phase of the hog production cycle, but do not explain completely the downward trends. Moreover, while prices have declined, costs, particularly feed costs which account for a substantial percentage of costs at most stages of development, have increased.[145]

In any final phase investigations, we intend to obtain a better understanding of price dynamics in the live swine market. Among the issues we intend to explore are: (1) the relationship of developments in particular production stages to the prices obtained for products at other stages;[146] (2) the relationship of

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[140] CR and PR at Table V-1, supplemented in INV-BB-056. We note that the slaughter hog prices shown in Table V-1 are the Iowa-Minnesota direct spot prices. Although spot sales represent only a relatively minor share of overall slaughter hog sales (13.5 percent in 2003), the slaughter hog market is a national market; therefore, slaughter hog prices based on other USDA price series show parallel trends. CR at II-3 and V-3, and USDA, Market News Service, *National Carlot Meat Trade Review for 2001, 2002, and 2003.*

[141] Petitioners claim that underselling is demonstrated by the fact that the average unit values (AUV) of subject imports are below USDA market prices. Petitioners' Postconference Brief at 11-12, Exhibit 1 at 13, and Exhibit 7. We decline to rely on import AUVs to measure underselling because subject import categories do not necessarily correspond to the categories used in USDA price series. For example, import statistics on swine for immediate slaughter likely include sows and boars, which are lower value products.

[142] INV-BB-056 at Table V-1.

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

[144] INV-BB-056, Tables V-1 and V-2.

[145] CR at II-15 and Table VI-1. For example, feed costs as a share of net sales has increased from 35.0 percent in 2001 to 45.5 percent in 2003.

[146] We note the parties' conflicting arguments on the extent to which subject imports of SEWs and feeder pigs have had an impact on prices of slaughter hogs. Petitioners' Postconference Brief at 18-20; Canadian Producers' Postconference Brief at 33-39; CPC's Postconference Brief at 24.

prices in the futures market to the price of SEWs, feeder pigs and slaughter hogs;[147] (3) the impact of events in pork markets on swine prices;[148] (4) the degree of integration of the U.S. and Canadian markets for hogs;[149] and (5) more generally, the operation of the various types of formula contracts, including those tied to feed prices.[150]

F. Impact of the Subject Imports

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[151] These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. 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."[152]

As measured by head, U.S. production increased by 0.7 percent over the period of investigation.[153] Also as measured by head, domestic shipments increased by 0.9 percent over the period; as measured by weight, domestic shipments increased by 3.4 percent over the period.[154] U.S. consumption rose by 3.0 percent over the period.[155]

While U.S. producers experienced an increase in the quantity of their net sales over the period, the value of their net sales declined and they experienced financial difficulties.[156] Although the industry's quantity of net sales grew from 2001 to 2003, the value of those sales declined because of a sharp drop in the unit value of sales.[157] As a result, domestic producers went from a relatively healthy net income in 2001 to a net loss in 2002. Although the unit value of sales increased modestly in 2003, this increase was offset by rising costs such that the industry again suffered a net loss in 2003.[158]

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[147] We note that U.S. prices of SEWs and certain swine futures contracts appear to be fairly closely correlated. See "Weekly feeder pig imports and prices: lean hog futures price and segregated early-weaned feeder pig price," compiled from USDA, Market News Service, and Manitoba Livestock Report.

[148] We note that certain Canadian respondents claimed that falling swine prices in 2002 were due to increased poultry and beef supply which adversely affected pork prices. Canadian Producers' Postconference Brief at 41-48.

[149] Commissioner Pearson notes that if the U.S. and Canadian markets for swine are truly integrated, one would expect an increase in supply of Canadian hogs to have the same effect on prices on each side of the border. By the same token, in an integrated market the same effect on U.S. prices would have occurred during the period of investigation had the increased Canadian supply of hogs been sold in Canada rather than exported to the United States.

[150] See CR at V-3-V-4.

[151] 19 U.S.C. § 1677(7)(C)(iii).

[152] 19 U.S.C. § 1677(7)(C)(iii).

[153] U.S. production increased from 100.5 million head in 2001 to 101.3 million head in 2003. CR at IV-4, PR at IV-4.

[154] Domestic shipments rose from 92.8 million head in 2001 to 93.6 million head in 2003, and from 25.2 billion pounds in 2001 to 26.0 billion pounds in 2003. CR/PR at Table III-7.

[155] U.S. consumption increased from 98.1 million head in 2001 to 101.0 million head in 2003. It increased from 25.9 billion pounds in 2001 to 26.9 billion pounds in 2003. CR/PR at Table IV-3.

[156] We rely on financial data obtained from the questionnaires in making our finding as to impact of the subject imports, as we determine it to be reliable. We obtained business proprietary data from 67 live swine producers representing 38 percent of U.S. production. CR/PR at VI-1.

[157] Total net sales increased from 34.0 million head in 2001 to 38.1 million head in 2003, but fell in terms of value: from $3.6 billion in 2001 to $3.5 billion in 2003. CR/PR at Table VI-1.

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

Four of the seven largest reporting U.S. live swine operations reported net losses in 2003.[159] Total operating expenses also increased steadily over the period, particularly the costs of feed, breeding expenses, and the purchase of feeder pigs.[160] A simplified variance analysis shows that the decline in net profitability from 2001 to 2003 was due mainly to lower prices and higher costs.[161] Annual capital expenditures increased over the period and total assets increased to a lesser degree.[162]

The combination of decreased sales value and increased operating expenses led to a decline in the industry's profitability from $526.3 million in net income in 2001 to a net loss of $144.7 million in 2002, and an even greater loss of $154.9 million in 2003.[163] Operating margins declined from a positive 14.6 percentage points in 2001 to a negative 4.5 percentage points in 2002 and 2003.[164]

While we recognize that increased operating expenses and other factors may have contributed to the industry's losses, we find that the increased volume of imports of this agricultural commodity product has depressed or suppressed domestic prices and thus weakened the financial performance of the domestic industry. We therefore find that the subject imports have had a significant adverse impact on the domestic industry producing live swine for purposes of the preliminary phase of these investigations.

In any final phase of these investigations we intend to explore several issues further, including the following: the percentage of domestically produced hogs that are owned or controlled by packers in order to discern the level of competition between the packers and the producers; the extent to which U.S. producers import feeder pigs and weanlings; the reasons why and the extent to which some U.S. producers who were formerly farrow-to-finish producers became finishers only and other issues related to the restructuring of the industry; the impact of imports of weanlings and feeder pigs by U.S. producers on the condition of the domestic industry; and why capital expenditures increased over the period of investigation as prices decreased.

Conclusion

For the reasons stated above, we find that there is a reasonable indication that the domestic industry is materially injured by reason of subject imports of live swine from Canada that allegedly are subsidized and sold in the United States at less than fair value.

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[159] CR/PR at Table VI-3.

[160] Total operating expenses increased from $3.1 billion in 2001 to $3.4 billion in 2002, then to $3.6 billion in 2003. CR/PR at Table VI-1.

[161] CR/PR at Table VI-4.

[162] Annual capital expenditures increased from $75.7 million in 2001 to $118.9 million in 2003. Total assets were valued at $2.3 billion in 2001 and $2.8 billion in 2003. CR/PR at Table VI-1.

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

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

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on March 5, 2004, by the National Pork Producers Council, Washington, DC; 20 state pork associations; and 101 individual pork producers, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized and less-than-fair-value (LTFV) live swine[1] from Canada. Information relating to the background of the investigations is provided below.[2]

Effective date	*Action*
March 5, 2004	Petition filed with Commerce and the Commission; institution of Commission investigations (69 FR 12347, March 16, 2004)
March 26, 2004	Commission's conference[3]
April 14, 2004	Commerce's notices of initiation (69 FR 19815 (antidumping) and 69 FR 19818 (countervailing duty))
May 7, 2004	Date of the Commission's vote
May 10, 2004	Commission determinations transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. Except for certain financial data compiled from responses to Commission questionnaires, U.S. industry data presented in this report consist of official statistics of the USDA. U.S. import data consist of Commerce's official import statistics.

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*.[4] In 1985, the Commission conducted a countervailing duty investigation on live swine and pork from Canada. Commerce found imports of live swine and pork to be subsidized by the Government of Canada, and the Commission concluded that the domestic industry producing live swine was materially injured by imports of live

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[1] For purposes of these investigations, "live swine," as defined by the U.S. Department of Commerce ("Commerce"), consists of four-legged, monogastric (single-chambered stomach), litter-bearing animals (litters typically range from 8 to 12 animals) of the species *sus scrofa domesticus*, except for U.S. Department of Agriculture ("USDA") certified purebred breeding swine. 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, with normal trade relations.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] A list of witnesses appearing at the conference is presented in app. B. Also presented in app. B are lists of the petitioning pork associations and producers.

[4] *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 Pub. 1615, November 1984.

swine from Canada, but that the domestic industry producing fresh, chilled, or frozen pork was not materially injured.[5] A sunset review of the countervailing duty order on live swine was conducted in 1999. 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.[6]

ALLEGED SUBSIDIES AND SALES AT LTFV

Alleged Subsidies

Petitioners did not have information sufficient to calculate an alleged *ad valorem* subsidy.[7] In its notice of initiation of a countervailing duty investigation, Commerce likewise did not specify an *ad valorem* level of alleged subsidies, but identified numerous programs which will be included in its investigation of programs alleged in the petition to have provided countervailable subsidies. A list of the programs is provided in Commerce's notice of initiation of a countervailing duty investigation presented in appendix A of this report.[8]

Alleged Sales at LTFV

Dumping margins alleged in the petition, as adjusted by Commerce, range from 0.00 percent to 18.87 percent *ad valorem* based on a comparison of export prices and home market prices, and from 13.22 percent to 66.48 percent *ad valorem* based on a comparison of export prices and constructed value.[9]

SUMMARY OF U.S. MARKET PARTICIPANTS

There are approximately 74,000 U.S. producers of live swine. The largest producer, Smithfield, accounted for *** percent of U.S. production in 2003. The next five largest U.S. producers accounted for *** percent of U.S. production: ***. The great majority of the remaining top U.S. producers each accounted for well under one percent of U.S. production.[10] Producers 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. A more detailed explanation of the categories of swine producers is presented later in the section of this part of the report entitled "Production Stages and Classification of Producers."

There are approximately 90 U.S. importers of live swine. Major importers include ***.[11]

U.S. purchasers of live swine consist of packers and finishing operations.

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

[6] 64 FR 60301, November 4, 1999.

[7] Petition, p. 20.

[8] 69 FR 19818, April 14, 2004.

[9] 69 FR 19815, April 14, 2004.

[10] Petitioning producers are represented by the law firm of Collier Shannon Scott, PLLC.

[11] U.S. importers Premium Pork Finishing, Premium Pork Finishing II, and PP Manitoba are represented by the law firm of Willkie Farr & Gallagher LLP. U.S. importer Swift & Company ("Swift") is represented by the law firm of Barnes, Richardson & Colburn. U.S. importers Baxter Transport, Ltd., J. Quintaine & Son Ltd., and Zantingh Swine Inc., are represented by the law firm of Serko & Simon LLP.

THE SUBJECT PRODUCT

The imported product subject to these investigations consists of live swine from Canada, as described in the Background section of this report, except USDA-certified purebred breeding stock.[12] In the remainder of this report, the term "swine" is used interchangeably with the term "live swine." This section of the report generally presents information that pertains to both imported and domestically produced swine, as well as information related to the Commission's "domestic like product" determination.

Classification of Live Swine

USDA standards for official grades of feeder pigs and slaughter swine were last updated in 1969 and 1985, respectively.[13] Since then, genetic improvement and changes in how swine are marketed and priced have effectively rendered these grades obsolete.[14] Some definitions provided for in these standards are, nonetheless, useful to assist in the classification of swine into broad categories for the purposes of these investigations. USDA standards first provide for segregation of swine by their intended use. Slaughter animals are those intended to be slaughtered immediately or in the near future.[15] Feeder animals are those destined to be slaughtered after a period of feeding.[16] USDA differentiation between slaughter and feeder swine is based solely on their intended use rather than on specific identifiable characteristics. The second standard used to categorize swine is class, which is determined by the sex condition of the animal. USDA standards define five classes (sex condition) of swine as follows:[17]

(a) *Barrow* – A barrow is a male swine castrated when young and before development of the secondary physical characteristics of a boar;

(b) *Gilt* – A gilt is a young female swine that has not produced young and has not reached an advanced stage of pregnancy;

(c) *Sow* – A sow is a mature female swine that usually shows evidence of having reproduced or having reached an advanced stage of pregnancy;

(d) *Boar* – A boar is an uncastrated male swine;

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[12] 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).

[13] USDA, AMS, *United States Standards for Grades of Feeder Pigs*, effective date April 1, 1969, Washington, DC; *United States Standards for Grades of Slaughter Swine,* effective date January 14, 1985.

[14] Feeder pig grades are based on evaluating a pig expected to reach market weight at 220 pounds; in the current U.S. market, a pig that reached market weight at 220 pounds would be severely discounted for being an underweight carcass.

[15] 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.*

[16] This classification does not make a distinction between 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.

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

(e) *Stag* – A stag is a male swine castrated after development or beginning of development of the secondary physical characteristics of a boar.[18]

Slaughter swine in normal trade consist of barrows and gilts that typically weigh 240 to 280 pounds, and sows and boars that typically weigh from 400 to 600 pounds. Feeder swine, including weanlings, in normal trade typically weigh 10 to 60 pounds. Swine sold between 110 pounds and market weight are typically the result of a dispersal sale (retirement or forced sale resulting from financial difficulties).[19]

USDA grades of slaughter swine were intended to be directly related to the grades of the carcasses they produce.[20] Live animal grading was important when most barrows and gilts were sold on a live weight basis. However, in the 1980s, packers determined that this system was not sending the proper signals to producers to reduce fat in market hogs.[21] In 1985, about 85 percent of all hogs were purchased on a live-weight basis. By 2001, about 72 percent were purchased on a carcass-weight basis; and among the 20 largest pork packers, nearly 85 percent of hogs were purchased on a carcass-weight basis.[22]

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 their maintenance 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) growing/finishing, which involves feeding hogs from the nursery weight of 30 to 80 to slaughter weight of 225 to 300 pounds.[23]

Hog producers are commonly classified according to the stages of production that they conduct,[24] including: (1) farrow-to-finish producers, which are operations that complete all 4 production phases; (2) farrow-to-feeder pig producers (also referred to as feeder pig producers) , which are in stages 1, 2, and 3; (3) feeder-pig-to-finish producers (also known as grower/finishers), which are in stage 4 only; (4) weanling-to-feeder pig producers (also known as nurseries), which are in stage 3 only; and (5) farrow-to-weanling producers (also known as weanling producers), which are in stages 1 and 2. Most producers

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[18] 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.

[19] Conference transcript (Mr. Meyer), pp. 66-67.

[20] USDA, AMS, excerpted from §53.152, *United States Standards for Grades of Slaughter Swine*, January 14, 1985, pp. 2-3.

[21] David Kenyon and Wayne Purcell, *Price Discovery & Risk Management in an Industrialized Pork Sector*, Research Institute on Livestock Pricing, Virginia Polytechnic and State University, Blacksburg, VA, found at *http://www.aaec.vt.edu/rilp/*, retrieved on April 23, 2004.

[22] USDA, Grain Inspection, Packers and Stockyards Administration (GIPSA), *Packers and Stockyards Statistical Report, 2001 Report Year*, GIPSA SR-03-1, September 2003.

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

[24] All facilities for any individual producer may not necessarily be located at a single location; however, the classification system implies that facilities necessary to complete all stages in a classification are owned and operated by the firm or individual identified as the producer.

are either classified as grower/finishers or farrow-to-finish operators.[25] How producers are classified determines the type of swine that they market. Farrow-to-finish operations and feeder-pig-to-finish operations[26] primarily supply barrows and gilts to hog packing plants. Farrow-to-feeder pig and nursery operations produce feeder pigs, while farrow-to-weanling operations produce weanling pigs. Operations involved in farrowing also supply sows and boars for slaughter plants.[27]

Production Phases[28]

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. Most pigs are weaned at 16 to 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. More than half of all producers practice all-in/all-out farrowing,[29] whereas a minority practice continuous flow farrowing. This is the point at which pigs may be marketed as weanling pigs 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.[30] This is the point at which pigs may be marketed as feeder pigs 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 of 240 to 280 pounds.[31] 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 typically of greater concern than providing heat. Death loss ranges from 2.4 percent at small operations (less than 2,000 pigs) to 3.7 percent at operations with 10,000 or more pigs; death loss at this phase of production is a

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

[26] 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 weanling pigs to remain in the same facility from weaning to sale for slaughter (conference transcript, pp. 19 and 52).

[27] The increased use of artificial insemination has reduced the supply of boars available for slaughter.

[28] 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.

[29] 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. More than 60 percent of operations practice all-in/all out nursery management.

[30] Death loss averages 2.6 percent of pigs that enter a nursery.

[31] Nearly 54 percent of operations practice all-in/all-out management in the grower finisher phase, while more than 40 percent practice continuous flow finishing.

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, being sent to market at 166 to 180 days.

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.[32] 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.[33] 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 these investigations, four parties have commented on the issue of domestic like product. Petitioners as well as the Canadian Live Swine Exporter Coalition state that the domestic like product should consist of "live swine," coextensive with the scope of the investigations.[34] 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.[35] The Canadian Pork

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[32] 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 (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).

[33] 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). 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).

[34] Petitioners' postconference brief, submitted by Collier Shannon Scott, PLLC, pp. 2-4, and the Canadian Live Swine Exporters' Coalition's postconference brief, submitted by Willkie Farr & Gallagher LLP, pp. 3-4 and Answers to Questions of Commission Staff, app. 1, pp. 1-8. 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 (Mr. Ambrecht), p. 29, and petitioners' postconference brief, p. 4).

[35] Postconference brief of Baxter Transport, Ltd.; J. Quintaine & Son Ltd.; and Zantingh Swine Inc., filed by

(continued...)

Council and its members support four domestic like products: (1) hybrid sows and boars for breeding; (2) sows and boars for slaughter; (3) market hogs for slaughter; and (4) weanlings and feeder pigs.[36]

The domestic like product discussion below is organized according to the six traditional domestic like product criteria used by the Commission, but will also include discussion appropriate to the semifinished products analysis.

Physical Characteristics and Uses

Segregated Early-weaned Pigs[37]

Segregated-early-weaned (SEW) pigs are pigs that have been removed from the sow while they still possess high levels of passive immunity imparted from colostrum.[38] The days of passive immunity imparted by colostrum vary by disease. However, SEW pigs are generally weaned between 14 and 17 days of age, with 19 to 20 days of age being a practical limit.[39] 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.[40] The pigs weigh 10 and 15 pounds when weaned.

Feeder Pigs

Traditional feeder pigs have been through an additional stage of production, the nursery stage, compared with isowean pigs. They typically weigh 30 to 60 pounds. These pigs may be produced from early-weaned pigs. More typically, however, these pigs are weaned after 19-20 days of age, and are co-mingled 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 isoweaned pigs. These pigs can be used in grower/finisher systems that practice all-in/all-out management, but this is not as critical to their performance as it is for isowean pigs.

(...continued)
Serko & Simon LLP, pp. 10-13. The Canadian Live Swine Exporter Coalition stated that "Although we acknowledge that an analysis of many of the Commission's like product criteria would suggest that sows and boars are different from 'regular' slaughter hogs, we do not believe that such differences rise to the level of 'clear dividing lines' . . ." (The Canadian Live Swine Exporter Coalition's postconference brief, Answers to Questions of Commission Staff, app. 1, p. 2).

[36] Postconference brief of the Canadian Pork Council and its members, filed by Cameron & Hornbostel LLP, pp. 2-23.

[37] For the purposes of this report, "weanling" is assumed to be a generic term that can refer to any weaned pig that is placed in a nursery. "Segregated early-weaned" (the United States terminology) and "isoweaned" (the Canadian terminology) refer to the management practices used to producer feeder pigs with higher health status than traditional production methods.

[38] Colostrum is the first milk from the sow at farrowing time; it transmits passive immunities which protect pigs from diseases until pigs develop active immunity to disease.

[39] USDA pricing reports indicate that early-weaned pigs are 19 or fewer days of age.

[40] All-in/all-out systems can operate on the basis of individual rooms in a building; on the basis of the entire building; or on the basis of all the buildings at a single site.

Slaughter Barrows and Gilts

These are typical market hogs. They have been grown to weights of 240-280 pounds. 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 (see discussion of market organization in Part II).

Slow-grow Pigs

These pigs can result from the all-in/all-out production system. They are pigs that do not perform as well as their pen mates, and have not achieved sufficient growth by the time the pen must be emptied to be marketed to a traditional packer. These pigs typically weigh less than 225 pounds, and therefore are heavily discounted in price if sold to major packers. As a result, an alternative market has developed for these pigs. Various brokers collect and inventory these pigs into sufficient quantities such that they can be shipped to processors that demand smaller pigs. Many of these processors are in Mexico.

Sows and Boars

Sows and boars are breeding animals that, for various reasons, can no longer function as such. They typically weigh 400 to 600 pounds and have developed secondary characteristics that make then undesirable to be slaughtered as typical market hogs. These hogs are sold primarily to processors that specialize in the slaughter of sows or boars. The meat from these animals is typically processed into sausage and other highly processed and highly seasoned products.[41]

Purebred Animals

The distinguishing feature of purebred animals is that they are of a pure genotype. These animals may be registered with a breed association but this is not necessary. While the fact that these animals are purebred may impart distinguishing physical characteristics, these animals are primarily distinguishable because of their source or traceability of their lineage. While some purebred animals are produced for the characteristics of their meat (Berkshires, for example), most purebred animals are raised primarily for breeding stock. Nonetheless, in many cases these animals are indistinguishable from market hogs of the same age and condition. Therefore, purebred hogs that do not meet physical conformation standards to qualify as breeding stock, or if production exceeds demand for breeding stock, are sold as market animals.

Hybrid Breeding Stock

Hybrid breeding stock are, for the most part, physically indistinguishable from market hogs of the same size and age. These animals are primarily distinguishable because of their source or the traceability of their linage. The primary purpose of these animals is replacement of breeding stock in

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[41] The Canadian Pork Council states that sows and boars for slaughter have "physical characteristics and uses {that} are distinct from those of market hogs, weanlings and feeder pigs, and their uses are different from sows and boars still used for breeding" (Canadian Pork Council's postconference brief, p. 8).

commercial herds. Nonetheless, those animals that do not meet standards of physical conformation to qualify as breeding stock, or if production exceeds demand for breeding stock, are sold as market animals.

Manufacturing Facilities and Production Employees

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 isowean pigs and all-in/all-out production systems.[42] Furthermore, some types of facilities are not acceptable for the production of swine to be used to produce specialty pork. Nonetheless, the characteristics used to distinguish commodity market hogs are, for the most part, inherent in the genetics and management system used, not necessarily in the specific type of facilities used, though various facilities may enhance or hinder specific genotypes and specific management systems. This is generally true regardless of the specific phases of production that an individual producer conducts. Therefore, 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 same is true of weanling and feeder pigs.

Facility size does pose some constraints on trade between various stages of production. A standard type of grower/finisher building may have a one-time capacity of as many as 1,000 to 1,200 pigs. In a system that operates on an all-in/all-out basis by building, these buildings then require the output from 120 to 140 sows farrowed within a few days of each other to fill to capacity. Only the largest farrowing operations, those with at least 4,000 sows in inventory, are able to supply sufficient pigs in a given week to fill the capacity. As a result, there is a demand created for large lots of early-weaned pigs to take advantage of the economies and efficiencies associated with combining early-weaning and all-in/all-out management systems.

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 isoweaned 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 isoweaned pigs, whereas a facility used to produce isoweaned pigs could easily apply its skill level to the production of traditional feeder pigs.

Grower/finisher facilities that do not have specialized nursery facilities or grower/finisher units not specialized for isoweaned pigs have a greater demand for traditional 30-60 pound feeder pigs than they would for isowean pigs. However, once isowean pigs have been through the nursery phase, the facilities and management needed to grow them to market weight are essentially the same as for traditional feeder pigs. While producers with facilities specialized for isowean pigs can substitute traditional feeder pigs, it is not likely that facilities without sufficient environmental controls for isowean pigs will purchase isowean pigs.

Interchangeability

From the standpoint of physical substitutability, feeder swine of similar size, age, and class are highly substitutable regardless of the production system under which they have been produced, or other special characteristics that they may possess. Nonetheless, feeder swine with specific characteristics may perform better, physically and economically, under specific conditions. For example, after completion of

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[42] The production of weanling or isowean pigs requires gestating and farrowing facilities.

the nursery stage, isoweaned pigs are physically interchangeable with traditional feeder pigs. However, because of their increased health status, isoweaned pigs are likely to perform better in the grower/finisher stage, especially for grower/finishers that have invested in facilities and management skills necessary to obtain optimal performance. The same is true among slaughter hogs. An individual processing plant could, theoretically, slaughter and fabricate hogs of any size. However, slaughter and fabrication systems are designed to operate most efficiently with hogs in narrow size ranges. Accordingly, various packers and processors have chosen to specialize in slaughtering and fabricating swine within narrow size ranges.

Customer and Producer Perceptions

The swine industry has become increasingly specialized; one study indicates that less than 35 percent of producers are farrow-to-finish operations and about the same percentage of producers have specialized in the grower/finisher phase.[43] Grower/finishers are becoming increasingly sophisticated in their demands for feeder swine. Though feeder swine of similar age and weight may be highly substitutable from a physical standpoint, grower/finishers' demand for specific intangible characteristics continues to increase. Grower/finishers may demand feeder swine that meet the necessary criteria, such as the high health status of isoweaned pigs, to perform optimally in their facilities and management systems.

Though pork consumers are becoming increasing specialized and sophisticated in their demands, and niche markets are growing, most pork continues to be a commodity product. Consequently, major packer demand for slaughter hogs is based primarily on measurable and identifiable characteristics including carcass weight, loin eye area/depth, and fat depth, and class. The major packers demand uniformly large and lean market hogs that allow them to maximize throughput and minimize costs. To attract these types of market hogs, packers have instituted pricing systems that severely discount hogs that do not fall withing narrow size ranges.

Customers and producers perceive differences between market hogs and sows and boars. Sows and boars typically weigh one-and-a-half to two times what market hogs 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 market hogs may be processed into sausage and other highly processed products, sows are boars are not processed into fresh pork cuts.

Channels of Distribution

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. Market hogs are typically sold direct from producer to packer. About 86 percent of non-packer-owned market hogs are sold under some form of market agreement.[44] Small producers may be more likely to deliver sows and boars to public markets; however, various brokers are increasingly purchasing these animals directly from large producers to create large lots,

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[43] USDA, APHIS, VS, *Swine 2000.*

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

which these brokers then sell directly to packers. Additional information on channels of distribution is found in Part II of this report.

Price

Packers operate a margin business and can only remain in business by selling pork for more than their cost of live hogs and processing. Therefore, what a packer can pay for slaughter swine is ultimately determined by the price of the pork products that the packer fabricates hog carcasses into, and the level of efficiency with which plants are operated and meat is marketed. On a hundredweight (cwt) basis, sows and boars are sold at a significant discount to the price of normal slaughter hogs.[45] However, the price of sows and boars must track closely with the price of market hogs because a sausage maker can easily substitute meat from market hogs for meat from sows and boars if the price of sows and boars does not decrease when the price of market hogs decreases. The price of feeder pigs tracks the expected price of market hogs, with some variation depending on the price of feed, because all feeder pigs will ultimately become market hogs. Therefore, packers have instituted pricing systems for market hogs that severely discount hogs that do not fall withing narrow size ranges. This is even more so true of sows and boars, which are slaughtered and fabricated in specialized facilities. For additional discussion of prices, see Part V of this report.

[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).

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

MARKET SEGMENTS OF SWINE

Live swine in the U.S. market are distinguishable by two factors: stage of growth, which is related to the demand considerations of specific buyers that purchase live hogs at distinctive points in the hog's life cycle; and production practices, which are related to final consumer demand for pork based on the inclusion of intrinsic, process-based attributes imparted at the production level and inherent in live swine at the time of slaughter.

Categories of Swine by Stage of Growth

Purchasers of live swine can be divided into five groups based on the stage of growth at which they purchase swine and the end use to which those hogs or pigs will be put. These five groups are (1) segregated early-weaned feeder pigs (also known as isowean pigs),[1] (2) traditional feeder pigs (hereafter feeder pigs), (3) barrows and gilts for slaughter (hereafter market hogs), (4) sows and boars for slaughter; and (5) breeding stock.[2]

Segregated Early-weaned Pigs

Segregated early weaned (SEW) or isowean pigs are purchased by specialized grower/finishers to be raised to market weight. The practice of segregated early weaning has resulted in pigs with a specialized health status.[3] Pigs removed from their mothers at less than 19 days of age maintain sufficient passive immunity such that they are less likely to be exposed to numerous diseases (mainly respiratory diseases) that reduce efficiency in the growing and finishing phases of production.[4] These SEW pigs require specialized nursery or growing facilities that provide a high level of environmental control necessary to support them during their transition from a milk diet to a solid diet. Buyers that have invested in the facilities and management skills necessary to optimally complete the growing and finishing process using SEW pigs are unlikely to demand traditional feeder pigs because this would be an inefficient use of their facilities and management skills.

Traditional Feeder Pigs

Some feeder pig buyers continue to demand traditional feeder pigs weaned at more than 19 days of age and raised in a nursery to a sales weight of 40 to 50 pounds. These growers and finishers most likely have not invested in the facilities or developed the management skills necessary to handle SEW pigs. These growers and finishers are not likely to demand SEW pigs because death losses resulting from

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[1] Segregated early-weaned is the term used primarily by U.S. producers, while isowean is the term used primarily by Canadian producers.

[2] USDA-certified purebred breeding swine were excluded from the petition. However, a significant proportion of breed stock are not purebred, so theoretically, all breeding stock are not excluded from the petition. Furthermore, 40 to 45 percent of the breeding herd is culled annually (Don Hrapchak, conference transcript p. 160). Therefore, some portion of the live swine imported for breeding purposes during a given year would be expected to enter the slaughter market as sows and boars in the same year as they were imported.

[3] Steve R. Meyer and Bill Lazarus, *How Can We Price Early-Weaned Pigs?*, National Pork Board, found at *http://www.porkboard.org/ProdIssues/pricingSEW.pdf,* retrieved on April 14, 2004.

[4] Ibid.

sub-optimal facilities and labor skills would offset any advantage associated with lower cost facilities or labor. The facilities possessed by these growers and finishers provide a lower cost because they may be older facilities that are depreciated. Their labor costs may be lower because they have not specialized in swine production, but nonetheless they possess excess household labor that has its highest valued use in growing and finishing pigs.

Barrows and Gilts for Slaughter (Market Hogs)

Major U.S. pork packers, including Smithfield Foods, Tyson Foods, Swift, and Excel, are the primary purchasers of market hogs. These firms demand uniformly large, lean hogs that allow them to operate their slaughter lines at high speeds, achieving optimal plant efficiency levels and spreading fixed costs over the largest quantity of pork possible. This allows these firms to be low-cost suppliers of lean, commodity pork to their own further processing operations,[5] other further processors, and large retailers.[6] Some packers may demand slightly larger or slightly smaller hogs based on demands of specific customers.[7] Packers use specialized pricing grids to adjust prices paid to producers reflecting differences in demand related to carcass weight, fat thickness, and expected lean yield to stimulate delivery of hogs that meet the optimal specifications for each individual plant. Nonetheless, the basic price paid for hogs by the major packers is based on a national market.[8] The highest value use for the meat from market hogs is muscle cuts for fresh table cuts (loins and ribs) and minimally processed pork products (ham and bacon).

Sows and Boars for Slaughter

The primary purchasers of sows and boars are sausage makers. Sows and boars are differentiated from market hogs for two primary reasons. First, animal size matters, therefore, sows and boars, which typically weigh 400 to 600 pounds, are slaughtered in facilities specifically designed to slaughter larger animals.[9] Furthermore, the development of secondary sex characteristics associated with additional growth and maturity in sows and boars 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. The meat from sows and boars is primarily used in highly processed and highly seasoned sausage and further processed products.

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[5] All of the major U.S. firms that slaughter hogs are integrated into carcass fabrication into fresh wholesale cuts, and further processing of wholesale cuts into processed products such as ham and bacon. Many are also integrated into the production of case-ready retail products.

[6] To achieve high line speeds, slaughter and fabrication lines are designed to operate on quite specific animal species and shapes. To handle differently sized animals, lines would have to be reconfigured, increasing costs and slowing production (James MacDonald and Michael Ollinger, "U.S. Meat Slaughter Consolidating Rapidly," *Food Review,* USDA, Economic Research Service, May-August 1997).

[7] Routh Packing Co., Sandusky, OH, prefers relatively lightweight hogs, averaging 234 pounds (Steve Marbery, *Pork Producer Magazine,* Spring 1997).

[8] USDA, Packers and Stockyards Programs, *Concentration in the Red Meat Packing Industry,* February 1996.

[9] For optimal efficiency, modern market hog processing facilities operate at line speeds in excess of 1,000 animals per hour. The rate for sows and boars is, however, by regulation, nearly 13 percent slower. The maximum line speed for a market hog slaughter line with 7 inspectors is 1,023 to 1,106 animals per hour; the maximum line speed for a sow or boar slaughter line with 7 inspectors is 896 to 964 animals per hour. 9 CFR, 310.1.

Categories of Swine by Pork Characteristics

The market for pork, and consequently the market for slaughter hogs, can be further divided into categories based on implicit pork attributes that are linked to production practices; these categories are categorized as commodity pork and specialty pork.

Commodity Pork

The vast majority of market hogs are used to fill the demand for commodity pork. At the processing level, demand for commodity pork is primarily based on its use as an input into the production of branded retail products, such as Smithfield hams and Oscar Meyer bacon. Value is added through consistent high-quality processing and brand advertising. This value added is, therefore, not inherent in the live animal, except for those characteristics that affect processing and market costs such as live weight, fat thickness, and lean yield; the characteristics are reflected in the use of pricing grids. In the fresh retail market, commodity pork competes for consumer dollars with other sources of protein such as chicken and beef. This market category tends to be driven by the demand for low-cost sources of animal protein. Competition is primarily based on price, so this segment tends to be susceptible to retail level price pressure.

Specialty Pork

The specialty pork category is driven by consumer demand for process-based attributes that are achieved primarily through live hog production practices – including such items as claims related to breed, antibiotic use, free-range or pasture raised, geographic location, grain-fed, grass-fed, and hormone use.[10] These attributes must exist in the live hog at its time of slaughter, and many require third-party verification. Therefore, the value associated with these characteristics cannot be added during slaughter or processing. Hogs produced for specialty markets are typically toll-slaughtered by independent packers for various marketing groups, such as Niman Ranch, Pipestone Family Farms, and Organic Valley Meat Company. Specialty pork typically commands a higher retail price;[11] consequently, hogs grown to specialty market specifications are generally priced higher than commodity hogs. Furthermore, prices paid for specialty hogs are less volatile.[12] However, the specialty pork market is small. A 2003 survey estimated that about 395,000 Iowa hogs were annually marketed as specialty pork;[13] it is part of a rapidly growing segment of the retail food industry as evidenced by retail sales of organic food, which has grown at 20 percent annually since 1990.[14]

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[10] USDA, Agricultural Market Service, "United States Standards for Livestock and Meat Marketing Claims," *67 FR 79552,* December 20, 2002.

[11] Sam Gugino "The Other Pork," *Wine Spectator,* March 31, 2002, reprinted at *Niche Pork, the other opportunity, Hot Topics,* found at *http://www.nichepork.org/hotTopics4.asp,* retrieved on March 10, 2004.

[12] "Producer premiums for organic and natural pork should last," *Niche Pork, the other opportunity, Hot Topics,* found at *http://www.nichepork.org/hotTopics4.asp*, retrieved on March 10, 2004.

[13] Pork Niche Market Working Group, *Study on Iowa-based Differentiated Pork, Executive Summary,* prepared by Food & Livestock Planning, Inc., Kansas City, MO, Oct.; found at *http://www.agmrc.org/pork/pnmwg/differentiatedpork.pdf,* retrieved on March 10, 2004.

[14] Carolyn Dimitri and Catherine Greene, *Recent Growth Patterns in the U.S. Organic Foods Market*, USDA, Economic Research Service, September 2002.

CHANNELS OF DISTRIBUTION

SEW Pigs and Feeder Pigs

Segregated early-weaned and traditional feeder pigs are mostly sold through direct farm-to-farm sales between the producer and the grower/finisher, though some traditional feeder pigs continue to be sold through auction markets.[15] Direct farm-to-farm sales volume reported by USDA during 2003 averaged 92,000 pigs weekly.[16] Weekly volume at the four major U.S. feeder pig auctions, however, was substantially less, with a weekly average of 1,520 pigs.[17] Imported Canadian feeder pigs are generally sold through the same or similar market channels as domestically produced feeder pigs.[18]

Swine for Slaughter

Nearly all hogs sold for slaughter are sold directly to processing companies. USDA reported that less than 3 percent of hogs for slaughter were sold through public markets (auctions and terminals). The largest demand is for finished barrows and gilts ready for slaughter. These hogs are processed into fresh pork, ham, and bacon for the commodity market. This part of the industry is dominated by the large traditional packers who focus on processing efficiency and low cost of production. These packers demand large, lean, uniformly sized hogs grown to a narrow weight range to facilitate efficient, high-speed processing. A small, but growing number of finished barrows and gilts are grown under specific environmental conditions to supply fresh and processed pork for specialized markets, including the organic and natural segment, the high-end restaurant segment, and various ethnic segments. This segment is dominated by smaller firms that focus on niche markets and value added rather than processing efficiency.

U.S. HOG CYCLE

The U.S. live swine production industry has been the subject of rapid structural change. In 1998, there were 113,590 hog operations. In just 5 years the number of hog operations dropped to 73,600, a 35-percent decrease.[19] Based on ownership, the number of operations with 5,000 or more animals increased in number, from 1,050 to 1,170 operations; these operations, however, increased their share of inventory

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[15] SEW pigs are generally not sold through auction markets because their disease status, which is dependent upon isolation from pigs from other herds, would be compromised.

[16] USDA, Agricultural Market News, *U.S. Direct Feeder Pig Summary, NW_LS852*, Des Moines, IA, weekly reports, January 3, 2003 to December 19, 2003.

[17] Sioux Falls, SD auctions were held bi-weekly since April 2003 (USDA, Agricultural Market News, *MN Stockyards Feeder Pig Auction Report*, WS_LS251, South St. Paul, MN, weekly reports, 2003; *MO Stockyards Feeder Pig Auction Report*, SJ_LS250, St. Joseph, MO, weekly reports, 2003; *Sioux Falls Feeder Pig Auction Report*, SF_LS250, Sioux Falls, SD, weekly reports, 2003; and *New Holland Feeder Pig Auction Report*, LN_LS250, New Holland, PA, weekly reports, 2003).

[18] However, 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 weanling pigs. Postconference brief of the Canadian Live Swine Exporter Coalition (Willkie Farr & Gallagher LLP, on behalf of Maple Leaf Foods, et al.), exhibits 2 and 3, April 5, 2004.

[19] An operation is any place having one or more hog or pig on hand at any time during the year. Individual owners may have multiple operations; therefore, the number of operations based on ownership is slightly less, and dropped from 105,600 to 67,770 between 1998 and 2002. USDA, National Agricultural Statistics Service, *Livestock Operations - Final Estimates 1998-2002,* April 2004.

from 55 percent to 70 percent.[20] During 2003, although small hog operations (those with less than 100 animals) represented 68 percent of all hog operations based on ownership, these operations held only 1 percent of the total hog inventory,[21] whereas operations with 2,000 or more hogs represented less than 5 percent of the operations, but held nearly 82 percent of the hog inventory.[22] The top 38 U.S. swine producers, each holding more than 10,000 sows, held a total of about 2.84 million sows in the second half of 2003;[23] this represented slightly more than 50 percent of all sows that farrowed during that time.[24] Researchers have also suggested that, among other factors, structural change may have affected the hog production cycle.[25]

The hog production cycle is a pattern of expansion and contraction in the number of hogs and pigs.[26] 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 will be 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 creating 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.

Testifying on behalf of the petitioners, Dr. Dermot Hayes indicated that the most recent 10 years of the hog cycle were not consistent with the historical pattern of U.S. hog cycles.[27] Dr. Hayes explained that, while the cycle may still average 4 years in length, prior to 1994, periods of profitability lasting two to four years were interspersed with shorter periods of losses. After 1994, longer periods of losses have been interspersed with shorter periods, typically less than 12 months, of profits.[28] Therefore, the overall profitability of hog production has been decreased. Dr. Hayes also testified that the high level of correlation exhibited between returns and changes in the breeding herd one year later was based on

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[20] USDA, National Agricultural Statistics Service, *Livestock Operations - Final Estimates 1998-2002,* April 2004.

[21] USDA, National Agricultural Statistics Service, *Livestock Operations,* April 2004.

[22] Ibid.

[23] Betsy Freese, "Independents take a stand, Pork Powerhouses 2003," *Successful Farming,* October 2003.

[24] USDA, National Agricultural Statistics Service, *Quarterly Hogs and Pigs,* December 30, 2003.

[25] 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.

[26] 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.

[27] Conference transcript, p. 31.

[28] Conference transcript, pp. 75-84.

returns to farrow-to-finish operations;[29] as noted above, farrow-to-finish operations accounted for less than 35 percent of all hog operations in 2000.

Dr. Hayes also testified that Canadian hog producers had failed to respond to the economic signals inherent in the hog cycle, in part because they were insulated from these market forces by Canadian Government assistance programs. He demonstrated this failure by describing the continuous increase in Canadian sow numbers. However, during a similar time period, U.S. producers in various states also appeared to not respond to the economic signals inherent in the hog cycle. That is, while U.S. national hog inventories tended to demonstrate typical patterns of expansion and liquidation, hog inventories in various states did not. Figures II-1 and II-2 show the December 1 inventory of total hogs and breeding hogs in five states: Iowa, Minnesota, North Carolina, Oklahoma, and Utah. Inventories in the traditional hog producing states of Iowa and Minnesota tended to more closely follow the cyclical pattern of expansion and contraction evident in the national inventories. Inventories in North Carolina, Oklahoma, and Utah, however, did not follow the cyclical patterns of expansion and liquidation, but demonstrated nearly continuous expansion, similar to the response of Canadian producers. Furthermore, producers in Oklahoma and North Carolina appear less likely to be farrow-to-finish operations than those in Iowa and Minnesota.[30]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on the available information, U.S. live swine producers are likely to respond to short-term changes in demand with small changes in the quantity of market hogs that they deliver to U.S. packing plants.[31] Biological constraints inherent in live swine production limit the ability of live swine producers to substantially increase the number of market hogs available for slaughter in the short term. Producers may, however, respond to short term changes in demand by increasing or decreasing the time that hogs are finished; this, however, will increase or decrease the weight at which hogs are delivered to packing plants. Therefore, the ability to speed up or slow down hog deliveries in response to short-term changes in demand is limited by price discounts for delivering hogs whose carcass weights fall outside of the optimal weight ranges in the appropriate pricing grid. The number of sows slaughtered is directly related to the existing breeding herd size and the cull rate, which for 2002 was reported to be between 42 and 47 percent.[32] The expanded use of artificial insemination in the hog industry has reduced the number of boars such that they have limited impact on U.S. slaughter numbers.

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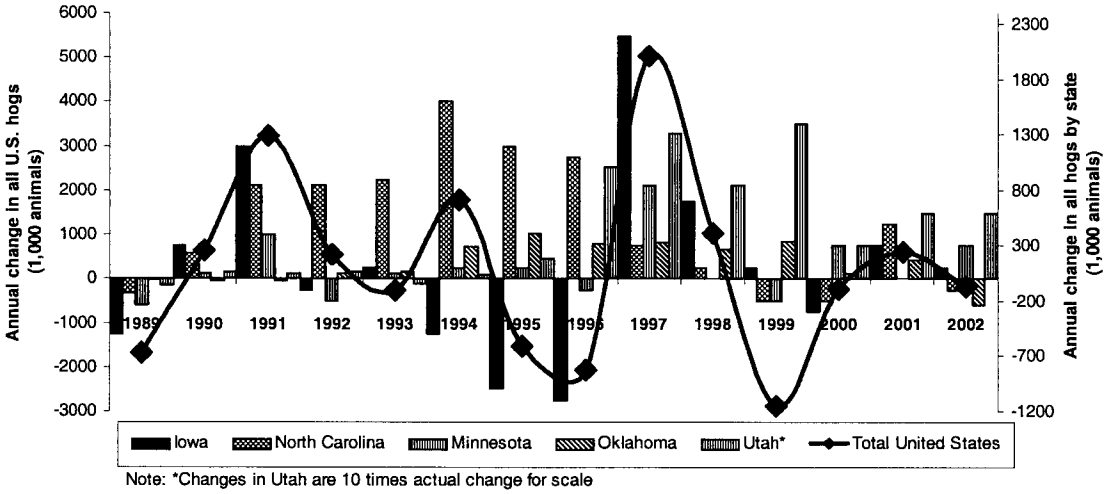
[29] Conference transcript, p. 32.

[30] Less than 19 percent of operations in the Southern region, which included NC, TX, AR, and OK, were farrow-to-finish operations compared with more than 30 percent in the Northern (MN, WI, MI, and PA) and East Central (IA, IL, IN, and OH) regions (USDA, APHIS, VS, *Swine 2000, Part 1: Reference of Swine Health and Management in the United States, 2000,* August 2001).

[31] The short term indicates periods of one year or less.

[32] Ken Stalder, *Sow Longevity, Its Improvement and Economic Importance*, Power Point presentation, found at *www.iowaporkcongress.org/download/ Sow_Longevity-Stadler.ppt*, retrieved April 22, 2004.

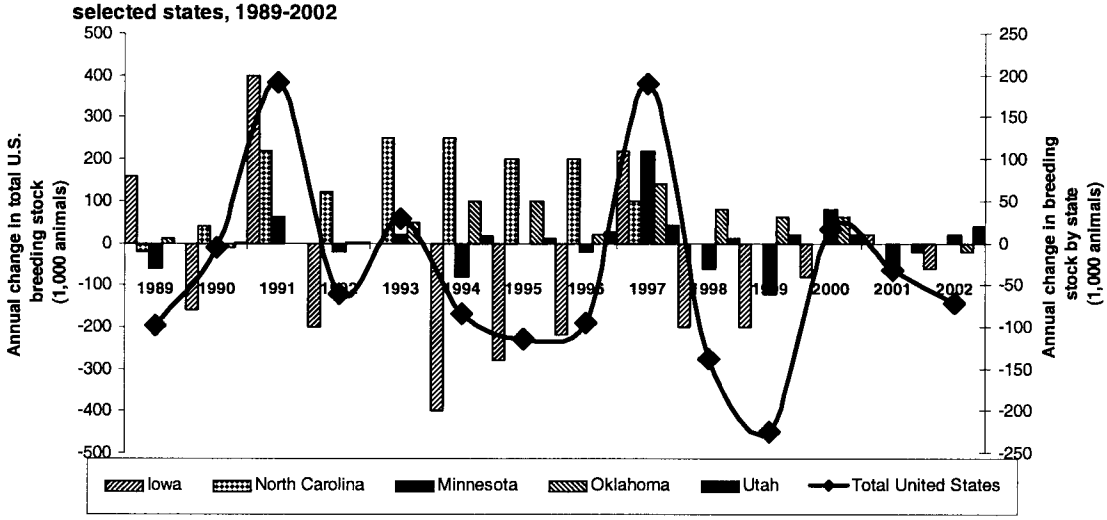
Figure II-1
The hog cycle and changes in the inventory of all hogs for the total United States and selected states, 1989-2002



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, 1989-2002



Source: USDA: *Hogs and Pigs*.

Industry Capacity

The capacity to produce weanling pigs and feeder pigs, and thus market hogs, is directly related to the number of sows and gilts available to breed and farrow. Capacity utilization with respect to live swine production is, however, less meaningful and measurable than the 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 are no longer suitable for breeding and are culled from the herd and slaughtered. Thus, the utilization of the breeding herd is practically viewed as being at or near 100 percent at all times.[33]

Capacity to produce weanling and feeder pigs, however, may be constrained as the number of breeding females approaches the limits of the available gestation and farrowing facilities. Smaller facilities with less environmental impact may be sited and constructed in less than a season.[34] Large facilities typical of today's swine industry, however, require a considerable amount of lead time for planning and permitting. Given the number of operations that have exited production it may appear that production capacity could quickly increase through the reentry of facilities into production. Furthermore, the reduction in breeding animal numbers in the United States may appear to suggest that U.S. producers are operating gestation and farrowing facilities below capacity. However, the ability of producers that have exited the industry to reenter production in the future, and the ability of producers to reduce production by only reducing breeding animals, is limited.[35]

Productivity also has an impact on industry capacity. Improvements in genetics, health, and management have increased the maximum output for any given size of the breeding herd. Between 1979 and 2001, the average number of pigs per year per breeding herd animal increased 57 percent from 10.3 to 16.2.[36] As a result, the same number of pigs can be produced from a smaller breeding herd; as such, the U.S. breeding herd decreased by 38 percent from 1979 to 2002, while the pig crop decreased by only 2 percent.[37] Conversely, some diseases such as PRRS (Porcine Reproductive and Respiratory Syndrome) can have significant negative effects on reproductive efficiency, which can quickly reduce capacity.[38]

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[33] Specialized breeding stock companies maintain a flow inventory of gilts that are available for sale as breeding stock; however, those animals not sold as breeding stock within a specified optimal time period must be sold for slaughter.

[34] The Environmental Protection Agency defines a concentrated animal feeding operation (CAFO) as an operation with more than 2,500 swine (John Sweeten, Ron Miner, and Carrie Tengman, *Fact Sheet #1: A Brief History and Background of the EPA CAFO Rule*, CAFO Fact Sheet Series, Livestock and Poultry Environmental Stewardship (LPES) curriculum, July 2003).

[35] Dr. Meyer testified that the ability of producers to re-enter production after exiting is limited because facilities usually require some rehabilitation and upgrading. Further, Dr. Meyer testified that producers can reduce production to below full facility capacity, but this is difficult because of the high fixed costs involved. Conference transcript, p. 61.

[36] Of the total increase, 29 percent was related to increased litter size, while 71 percent was related to increased number of litters per sow (USDA, National Agricultural Statistics Service, *U.S. Hog Breeding Herd Structure,* September 13, 2002, found at: *http://usda.mannlib.cornell.edu/reports/nassr/livestock/hog-herd/spehog02.pdf*, retrieved April 22, 2004).

[37] USDA, National Agricultural Statistics Service, *U.S. Hog Breeding Herd Structure,* September 13, 2002, found at *http://usda.mannlib.cornell.edu/reports/nassr/livestock/hog-herd/spehog02.pdf*, retrieved April 22, 2004.

[38] The Pig Site Quick Disease Guide, Porcine Reproductive and Respiratory Syndrome, found at *http://www.thepigsite.com/diseaseinfo/default.asp,* retrieved April 22, 2004.

Alternative Markets

Alternative markets for U.S. producers in the form of live swine exports are limited because a small percentage of live swine that are subject to these investigations are exported. Therefore, the industry's ability to increase shipments by exporting, or to replace imports by reducing exports, is limited. U.S. live swine exports averaged $27.6 million during 2001-03. However, about half of this total, $13.9 million, were purebred breeding animals, which are not the subject of these investigations. About 45 percent of the total was live swine weighing more than 50 kg, exported to Mexico. The Mexican market, however, does not generally demand typical U.S. market hogs weighing between 240-270 lbs, but demands a lighter weight slaughter hog.[39]

Inventory Levels

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 weight range of 240 to 280 pounds. 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. These numbers are important to the industry because producers and processors use them to estimate the number of live swine that come to market at various points in the future. Therefore, inventories can affect future price expectations, influencing future production decisions. Furthermore, because sow numbers are an indicator of capacity, breeding animal inventories are also used to estimate future supply and price expectations.

During 2001-03, the December 1 inventory of market hogs averaged 53.7 million animals, while the inventory of animals kept for breeding averaged 6.0 million animals. The December 1, 2003 market hog inventory was 1 percent greater than the 2001 and 2002 December 1 inventories, whereas the 2003 breeding herd inventory was 96 percent of the 2001 breeding herd inventory and 99 percent of the 2002 breeding herd inventory. Despite the decrease in breeding herd numbers between 2002 and 2003, market hog inventories in all weight ranges were greater, more so for weights less than 120 lbs compared with weights 120 lbs and over. USDA credits both a developing U.S. hog finishing sector that relies on Canadian weanling and feeder pigs and higher U.S. breeding herd productivity as factors affecting the apparently contradictory trends in breeding stock and market hog inventories.[40]

Production Alternatives[41]

Production alternatives for U.S. producers of live swine have become more limited over time. Historically, swine production took place on diversified operations that produced grain and may also have produced other livestock. The swine production facilities on these operations were flexible because the basic technology to produce live swine had been relatively constant over a significant period of time. Therefore, these facilities could be depreciated over longer periods, reducing fixed facility costs, and allowing producers to exit and enter the industry as price warranted. However, modern swine production facilities are highly specialized, not only to swine production, but for specific growth phases of swine production, greatly increasing fixed facility costs. This restricts diversified operations that may have

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[39] Live hogs exported to Mexico tend to be what are referred to in the industry as "slow grows." These are pigs that have not achieved optimum market weight along with their pen mates, but nonetheless must be marketed in an all-in/all-out production system. These pigs would be seriously discounted by U.S. packers, but are more desirable in the Mexican market, which demands smaller slaughter hogs (***, USITC staff interview, April 23, 2004).

[40] USDA, Economic Research Service, *Livestock, Dairy, & Poultry Outlook,* LDP--18, April 14, 2004.

[41] Generally based on conference transcript, pp. 60-61.

exited the industry from re-entry, and limits the ability of firms currently producing swine from exiting because the ability to modify existing facilities to produce other products is limited. Total investment per litter can range from $553 per litter for a flexible pasture production system versus $1,130 for a specialized total confinement system.[42]

Production Costs[43]

Swine production costs are typically divided among variable and fixed costs of production. Variable costs typically include expenditures for feed, veterinary and health, fuel, repairs, utilities, bedding, marketing, and labor. Fixed costs included machinery, facilities, breed stock depreciation and replacement, interest and insurance. Feed costs are the largest single cost of hog production. Enterprise budgets for a typical Iowa farrow-to-finish producer estimated that feed costs accounted for 55 percent of total costs; and variable costs, including feed, were 80 percent of total costs. The cost structure of more specialized facilities varies. Feed costs for weanling pig production in Iowa were 26 percent of total costs; and all variable costs, including feed were 53 percent of total costs. For growing and finishing a 50-lb feeder pig, feed accounted for 40 percent of total costs; the feeder pig accounted for 38 percent of total costs; and variable costs, including feed and the pig, accounted for 88 percent of total costs.

Regardless of the size or specialization of swine producers, feed is a major component of costs, and the major components of feed are feed grains (primarily corn but rations may also include grain sorghum, barley, or feed wheat depending on locally available supplies) and soybean meal.[44] During 2001-03 hog feed prices increased slightly. The price of 14- to 18-percent protein rations increased from $215 and $216 per ton in April of 2001 and 2002, respectively, to $223 per ton during April 2003; 38- to 42-percent protein concentrates similarly increased from $302 and $307 per ton in April of 2001 and 2002, respectively, to $322 per ton in April 2003.[45] During 2001-03, corn prices ranged from a low of $1.76 per bushel in June 2001 to a high of 2.47 per bushel in September 2002.[46]

U.S. Demand

Demand for live swine, regardless of size or age, is ultimately derived from the demand for pork and pork products, including fresh pork cuts, ham, bacon, and sausage. Demand for various types of pork and pork products leads to the demand for various types of live slaughter swine. The U.S. domestic demand index for pork as estimated by the Research Institute on Livestock Pricing (RILP) at Virginia Tech University showed that pork demand decreased during 2001-03; the index decreased from 104.70 in 2001 to 102.58 in 2003. Grimes and Plain agreed that pork demand decreased slightly, about 1.4 percent

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[42] Gary May, William Edwards, John Lawrence, Livestock Enterprise Budgets for Iowa – 2003, Iowa State University, January 2003.

[43] All percentages are based on budget estimates in Gary May, William Edwards, John Lawrence, Livestock Enterprise Budgets for Iowa – 2003, Iowa State University, January 2003.

[44] Budget estimates in May et al were based on a $2.18 per bushel corn price and $0.09 per pound for 44 percent soybean meal, or $0.16 per pound for hog supplement/mineral mix (Gary May, William Edwards, John Lawrence, Livestock Enterprise Budgets for Iowa – 2003, Iowa State University, January 2003).

[45] The 14- to 18-percent protein products represent complete rations without need for further mixing or supplementation, but exclude the price of pig starters. The 38- to 42-percent protein concentrates require mixing with feed grains for a complete ration (USDA, National Agricultural Statistics Service, *Agricultural Prices*, December 2003).

[46] USDA, National Agricultural Statistics Service, *Agricultural Prices*, December 2001 and December 2003.

between 2002 and 2003.[47] However, despite the decrease in pork demand, Grimes and Plain believe that demand for live hogs increased by about 4.6 percent between 2002 and 2003.[48]

Twenty-three of 75 respondents to producer questionnaires indicated that demand for live swine in the U.S. had increased since January 1, 2001. The principal factors that producers identified included increased exports, population growth, dietary preferences linked to low-carbohydrate diets, and pork prices versus the prices of competing meats. Similarly, 15 of 23 responding importers indicated increased demand for slaughter swine that resulted from increased pork demand linked to consumer preference, the cost of competing protein sources, and increased pork exports. Importers also linked increased demand for slaughter sows and boars to increased demand for sausage and processed meat products. Furthermore, importers identified increased demand for weanling and feeder pigs linked to increased opportunities to finish hogs, which they related to the availability of low-cost feed. However, 30 U.S. producers indicated that demand for live swine in the U.S. had decreased. Most of these producers, however, associated decreased demand with lower prices that resulted from increased supply, including and more specifically increased supply of weanling pigs, feeder pigs, and slaughter hogs from Canada. None of the producers that indicated that demand for live hogs had decreased linked this decrease to decreased demand for pork or pork products.

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.

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.). Based on available data, staff believes that there is a relatively high level of substitutability between domestically produced live swine and live swine imported from Canada.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced live swine can generally be used in the same applications as imports from Canada, producers and importers were asked whether the product can "always," "frequently," "sometimes," or "never" be used interchangeably (table II-1).

When asked to compare U.S. live swine with Canadian imports, 45 of the 74 responding U.S.-producers reported that they can always be used interchangeably; 22 of the remaining firms reported that they can frequently be used interchangeably; three reported that they can sometimes be used interchangeably; and four reported no familiarity with the products. Of the 24 responding importers, eight answered frequently, seven answered always, five answered sometimes, two answered never, and two were not familiar with regard to U.S. product and Canadian imports.[49]

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[47] Tyler Kelly, "Consumer Demand Down in '03, Live Hog Demand Up, *Pork Magazine*, February 3, 2004, found at *http://www.porkmag.com/news_editorial.asp?pgID=721&ed_id=2412*, retrieved April 26, 2004.

[48] Tyler Kelly, "Consumer Demand Down in '03, Live Hog Demand Up, *Pork Magazine*, February 3, 2004, found at *http://www.porkmag.com/news_editorial.asp?pgID=721&ed_id=2412*, retrieved April 26, 2004.

[49] One importer that answered both always and sometimes was counted as an always response.

Table II-1
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 and importers

Country comparison	U.S. vs Canada				
	A	F	S	N	0
Perceived degree of interchangeability:					
U.S. producers	45	22	3	-	4
U.S. importers	7	8	5	2	2
Perceived importance of differences in factors other than price:					
U.S. producers	8	2	21	32	9
U.S. importers	5	5	7	3	3

[1] Producers and importers were asked if live swine produced in the United States and in Canada is 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' sales 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 questions concerning interchangeability, producers and importers were also asked to discuss whether differences other than price (i.e., quality, availability, transportation network, product range, technical support, etc.) between live swine produced in the United States and in Canada were a significant factor in sales of the product. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-1).

Of the 72 responding U.S. producers, 32 reported that differences (other than price) are never a factor; 21 reported that they were sometimes a factor; two reported that they were frequently a factor; eight reported that they were always a factor; and nine reported no familiarity with the products. A few firms provided additional information on the differences; two U.S. producers reported that the health of the live swine from Canada was higher (i.e., lower death losses and lower veterinarian and medical costs) and one firm reported that the shipping costs for Canadian product was higher. One U.S. producer, ***, reported that it "can offer advantages such as single sourcing, high health, {and} access to *** nutritional technologies and research." Importers were more mixed in their responses to whether factors other than price are important in their sales of live swine. Of the responding firms, three reported that differences (other than price) are never a factor in their sales; seven reported they are sometimes a factor; five reported that they are frequently a factor; and five reported that they were always a factor. Several importers noted differences such as high quality of Canadian hogs, more uniform sizes, availability of desired sizes, ample supply of high quality pigs from Canada, and delivery factors (e.g., transportation network, time of delivery).

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 alleged margin of dumping and nature and extent of subsidies 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 in Part VI.

U.S. PRODUCERS

The most prevalent form of raising live swine is a farrow-to-finish operation. Other live swine operations include farrow-to-feeder and feeder-to-finish. A major trend in the U.S. live swine industry is toward fewer and larger hog operations. In 2003, there were 73,600 operations with swine in the United States, down 9.4 percent from 81,220 operations in 2001 (table III-1).

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 integrators.[1] U.S. swine inventories by regions are presented in table III-1. Information on swine operations, by size, and their shares of swine inventories is presented in table III-2.

There are approximately 74,000 U.S. producers of live swine. The largest producer, Smithfield, accounted for *** percent of U.S. production in 2003. The next five largest U.S. producers account for *** percent of U.S. production: ***. The great majority of the remaining top U.S. producers each accounted for well under one percent of U.S. production.

The Commission sent producer questionnaires to 80 producers of live swine, and pork association questionnaires to state 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, their production locations, and production. Table III-4 presents 2003 swine inventories by state and indicates which state associations responded to the Commission's questionnaire and the positions they take on the petition. Table III-5 presents the state associations' responses regarding changes their members collectively experienced in their operations in 2001, 2002, and 2003 compared to the preceding year.

In 2003, several U.S. producers of live swine either reorganized or closed their operations: Alliance Farms, Bell Farms, Farmland Foods, Heartland Pork Enterprises, and Sand Livestock Systems.[2] 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 located in St. Joseph, MO.[3]

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

[2] Conference transcript (Jon Caspers, owner of swine operations), p. 16.

[3] Canadian Live Swine Exporter Coalition's postconference brief, p. 49.

Table III-1
Live swine: U.S. swine operations[1] and inventories,[2] by regions, 2001-03

Region	2001	2002	2003
	Number of operations		
Corn Belt[3]	44,200	40,100	38,500
Southeastern States[4]	13,750	13,100	12,650
All other	23,270	23,050	22,450
Total	81,220	76,250	73,600
	Share of total *(percent)*		
Corn Belt	55	53	52
Southeastern States	15	17	17
All other	30	30	31
Total	100	100	100
	Inventories (*1,000 head*) as of December 1 --		
Corn Belt	39,050	39,310	39,950
Southeastern States	12,601	12,130	12,400
All other	8,153	8,114	8,039
Total	59,804	59,554	60,389
	Share of total (*percent*)		
Corn Belt	65	66	66
Southeastern States	21	20	21
All other	14	14	14
Total	100	100	100

[1] An operation is any place having one or more swine on hand at any time during the year.
[2] Inventories include both breeding and market live swine.
[3] The Corn Belt States are Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.
[4] The Southeastern States are Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

Note: Shares may not add to the totals shown due to rounding.

Source: Compiled from official USDA statistics.

Table III-2
Live swine: Percentage distribution of U.S. swine operations and swine inventories, by size of enterprises, 2001-03

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					
2001	47,790	14,260	6,711	5,315	4,944	2,200
2002	45,640	12,261	6,234	5,031	4,811	2,273
2003	44,285	11,615	5,687	4,866	4,877	2,270
	Swine inventory (*percent*)					
2001	1.0	5.5	7.5	12.0	23.0	51.0
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

Source: Compiled from official USDA statistics.

U.S. PRODUCERS' BREEDING STOCK AND PRODUCTION

As shown in table III-6, the U.S. breeding stock decreased and the pigs per litter increased slightly from 2001 to 2003. A decrease in breeding stock frequently indicates the intention to reduce future production. Sows can produce 2.7 litters per year.[4] Production increased by 1.2 percent from 2001 to 2002, then decreased by 0.4 percent in 2003.

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

Data on U.S. producers' shipments of live swine are presented in table III-7. U.S. producers' U.S. shipments based on the head count of swine increased irregularly by 0.9 percent from 2001 to 2003, whereas U.S. producers' shipments based on weight increased in each year, by 3.4 percent between 2001 and 2003. The value of U.S. producers' U.S. shipments decreased irregularly by 11.6 percent between 2001 and 2003. The unit value of U.S. producers' U.S. shipments decreased irregularly by 12.4 percent from 2001 to 2003. Export shipments were relatively small and increased in each year.

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

Table III-8 presents the U.S. producers' direct imports and purchases of live swine. Eight state associations indicated that they had members that raised swine and had also imported live swine from Canada, and one state association indicated that it had a member who was a packer that imported live swine from Canada.

[4] Conference transcript (Florian Possberg, Big Sky Farms), p. 177.

Table III-3
Live swine: Responding U.S. producers, their positions on the petition, locations of their sow base, and production in 2003

Firm	Positions on petition	Locations of sow base	Production (*head*)
Alan Christensen	Support	SD	***
Bailey Terra Nova Farms	Support	MI	***
Bartling Brothers	Support	NE	***
Berend Brothers Hog Farm	Support	OK	***
Blue Wing Farm	Support	MI	***
Bornhorst Brothers	Support	OH	***
Bredehoeft Farms	***	MO	***
Buhl's Ridge View Farm	Support	MN	***
Cargill Pork	Oppose	NC, AR, OK	***
Cheney Farms	Support	MI	***
Circle K Family Farms	***	MI	***
Coharie Hog Farm	Support	NC	***
Country Line Swine	Support	ND	***
Country View Family Farms	***	PA	***
David Ballard	Support	MI	***
Dean Vantiger	Support	IA	***
De Young Hog Farm	Support	MI	***
Double "M"	Support	WI	***
E & L Harrison	Support	WI	***
Elwyn Fitske	Support	NE	***
Ernest Smith Farms	Support	NC	***
Gary Asay	Support	IL	***
Gebben's Hamland	Support	IL	***
Gold Kist	***	GA	***
H & H Feed & Grain	***	MI	***
H & K Enterprise	Support	IA	***
Haag Farms	Support	IL	***
Ham Hill Farms	***	MO	***

Table continued on next page.

Table III-3--*Continued*
Live swine: Responding U.S. producers, their positions on the petition, locations of their sow base, and production in 2003

Firm	Positions on petition	Locations of sow base	Production (*head*)
Hanor	***	OK, NC, WI, IL, OH, IA	***
Heartland Pork	Support	SD	***
Heritage Swine	Support	WI	***
High Lean Pork	Support	MI	***
Hormel Foods	***	MN	***
Huron Pork	Support	MI	***
Ionia Pigs	Support	IA	***
Iowa Select Farms	***	IA	***
J. C. Howard Farms	Support	NC	***
J. D. Howerton & Sons	Support	MO	***
Jim Kempen	Support	WI	***
John Cleland	Support	IL	***
Keith Berry Farms	Support	IN	***
Kendale Farm	Support	MI	***
Kessler Farms	Support	MO	***
Land O'Lakes	***	IA, IL, OK, MO, GA	***
Lange Farms	Support	OH	***
Lehmann Brothers Farms	Support	IL	***
Main Hitch Farm	Take no position	IL	***
Marvin Larrick	Support	OH	***
Maxwell Foods	Support	NC	***
Meier Family Farms	Support	IA	***
MFA	Support	MO	***
Ned Black & Sons	Support	OH	***
New Leaf Premium Pork	Oppose	IA	***
Oak Leaf Premium Pork	Oppose	IA	***
Orangeburg Foods	Support	SC	***

Table continued on next page.

Table III-3--*Continued*
Live swine: Responding U.S. producers, their positions on the petition, locations of their sow base, and production in 2003

Firm	Positions on petition	Locations of sow base	Production (*head*)
PFFJ	Support	AZ	***
Premium Standard Farms	Support	MO, NC, TX	***
Prestage Farms	Support	NC, MS	***
PVC Management	Support	MN	***
Rehmeier Farms	Support	MO	***
R Hogs	***	SD	***
Rodger Schomberg	Support	WI	***
Scott Tapper Farm	Support	IA	***
Seaboard Farms	***	KS, CO, OK	***
Smithfield (Murphy Brown)	***	NC, VA, UT, MO, OK, IA, TX	***
Sunnycrest	Support	IA	***
TriOak Foods	***	IA	***
Watertown Weaners	Support	IA	***
Wen Mar Farms	***	OH	***
William Walter	Support	SD	***
Willow Ridge Farms	Support	NY	***
Wispig	Support	WI	***
Wolf Farms	Support	WI	***
Wooden Purebred Swine Farms	Support	MI	***
Woodlawn Farms	Support	OH	***

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

Table III-4
Live swine: Responding state associations, positions on the petition, locations of their swine inventory, and inventories, as of December 1, 2003

State association responding to the questionnaire	Positions on the petition	State	Inventory (*1,000 head*)
Alabama Pork Producers	***	AL	165
Connecticut Pork Producers Association	***	CT	4
Idaho Pork Producers Association	***	ID	26
Illinois Pork Producers Association	***	IL	4,000
Indiana Pork Advocacy Coalition	***	IN	3,100
Iowa Pork Producers Association	***	IA	15,900
Maine Pork Producers Association	***	ME	6
Michigan Pork Producers Association	***	MI	950
Minnesota Pork Producers Association	***	MN	6,500
Missouri Pork Association	***	MO	2,950
Nebraska Pork Producers Association	***	NE	2,900
North Carolina Pork Council	***	NC	10,000
North Dakota Pork Producers	***	ND	150
Ohio Pork Producers Council	***	OH	1,520
Oklahoma Pork Council	***	OK	2,380
Pennsylvania Pork Producers Council	***	PA	1,110
South Carolina Pork Producers	***	SC	300
South Dakota Pork Producers Council	***	SD	1,280
Tennessee Pork Producers Association	***	TN	215
Utah Pork Producers Association	***	UT	660
Virginia Pork Industry Association	***	VA	380
Washington State Pork Producers	***	WA	27
Wisconsin Pork Association Cooperative	***	WI	480

Source: Official statistics of USDA and Commission questionnaire responses.

Table III-5
Live swine: Changes experienced by reporting U.S. state associations' collective members in 2001, 2002, and 2003 compared to the preceding year

Item	2001			2002			2003		
	I	D	N	I	D	N	I	D	N
Production	5	10	4	6	10	3	6	8	4
U.S. shipments	4	2	5	5	2	4	5	1	5
Export shipments	4	--	7	3	1	7	2	2	7
Inventories	4	10	3	6	8	3	3	10	4
Number of workers	1	4	8	1	4	8	1	4	8
Hours worked	4	1	7	4	1	7	5	1	6
Wages paid	7	--	7	9	--	4	9	--	5
Costs	12	--	3	14	--	1	14	--	1
Revenues	4	8	4	--	15	1	3	11	2
Operating income	4	7	4	--	13	2	--	11	4
Capital expenditures	4	1	9	3	2	9	4	3	7
Per-head prices received	5	6	4	--	15	--	6	7	2

Note: I = Increase, D = Decrease, N/C = No or little change.

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

Table III-6
Live swine: U.S. producers' breeding stock, sows farrowing, pigs per litter, and production, as of December 1, 2001-03

Item	As of December 1--		
	2001	2002	2003
Breeding stock[1] (*1,000 head*)	6,209	6,058	5,965
Sows farrowing (*1,000 head*)	11,386	11,492	11,401
Pigs per litter	8.83	8.85	8.88
Production[2] (*1,000 head*)	100,503	101,678	101,254

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

Source: Compiled from official USDA statistics.

Table III-7
Live swine: U.S. producers' shipments, by type, 2001-03

Item	Calendar year		
	2001	2002	2003
		Quantity (*1,000 head*)	
U.S. shipments[1]	92,767	94,651	93,613
Export shipments	47	88	123
Total	92,814	94,740	93,736
		Quantity (*1,000 pounds*)	
U.S. shipments[2]	25,152,081	25,852,792	26,002,408
Export shipments	12,465	23,427	32,689
Total	25,164,546	25,876,219	26,035,097
		Value (*1,000 dollars*)	
U.S. shipments[3]	11,006,117	8,564,943	9,730,663
Export shipments	5,767	12,342	22,777
Total	11,011,885	8,577,284	9,753,439
		Unit value (*per head*)	
U.S. shipments	$118.64	$90.49	$103.95
Export shipments	122.15	139.57	185.53
Total	118.64	90.54	104.05
		Unit value (*per pound*)	
U.S. shipments	$0.44	$0.33	$0.37
Export shipments	0.46	0.53	0.70
Total	0.44	0.33	0.37

[1] Commercial and farm slaughter minus the number of imports of Canadian live swine.
[2] Commercial slaughter weight minus the weight of imported Canadian live swine.
[3] The value of U.S. shipments is calculated as total live weight of U.S. commercial slaughter, minus total weight of imports, times price received.

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

Source: Compiled from official USDA and Commerce statistics.

Table III-8
Live swine: U.S. producers' imports and purchases, 2001-03

* * * * * * *

U.S. PRODUCERS' INVENTORIES AND EMPLOYMENT

Data on end-of-period inventories of live swine for the period examined are presented in table III-9. Inventories of live swine, by weight group, are presented in table III-10. There are no known data sources that specifically report on employment and wages in the swine operations. However, a majority of state swine associations reported in their questionnaire responses (table III-5) that there was no change in the number of workers and hours worked from 2001 to 2003, but that wages paid increased during the same period.

Table III-9
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, 2001-03

Item	2001	2002	2003
Inventories[1] (*1,000 head*)	59,804	59,554	60,389
Ratio to production (*percent*)	59.5	58.6	59.6
Ratio to U.S. shipments (*percent*)	64.5	62.9	64.5
Ratio to total shipments (*percent*)	64.4	62.9	64.4

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

Source: Compiled from official USDA statistics.

Table III-10
Live swine: U.S. producers' end-of-period inventories of market hogs and pigs, by weight group, as of December 1, 2001-03

Item	2001	2002	2003
		Quantity (*1,000 head*)	
Under 60 pounds	19,908	19,485	19,744
60-119 pounds	12,924	13,033	13,259
120-179 pounds	10,744	10,875	11,110
180 pounds and over	10,018	10,103	10,312

Source: Compiled from official USDA statistics.

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 90 firms believed to be importers of live swine, as well as to all U.S. producers that were sent producers' questionnaires, and received 25 questionnaire responses.[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 2003.

U.S. IMPORTS

U.S. imports of live swine are presented in table IV-1.[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 2003. The volume of imports of live swine from Canada increased by 39.8 percent based on head count and 22.7 percent based on weight from 2001 to 2003. In general, imports of live swine are either weanlings that will be fattened to slaughter weight, or animals already at slaughter weight. A breakout of imports of live swine from Canada by HTS statistical reporting numbers is presented in appendix D (tables D-1 and D-2).

APPARENT U.S. CONSUMPTION

Data on U.S. consumption of live swine are presented in table IV-2. The quantity of U.S. consumption by number of animals and by weight increased by 3.0 percent and 3.9 percent, respectively, from 2001 to 2003. The value of U.S. consumption decreased by 10.8 percent from 2001 to 2003.

U.S. MARKET SHARES

U.S. market shares for live swine are presented in table IV-3. Measured by head of swine, U.S. producers' market share decreased by 2.0 percentage points between 2001 and 2003, and the share of imports from Canada increased by the same amount. Measured by weight, U.S. producers' market share decreased by 0.4 percentage points between 2001 and 2003, and the share of imports from Canada increased by the same amount. Measured by value, market share shifted by 0.8 percentage points.[3]

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[1] The Commission sent questionnaires to those firms identified in the petition and firms identified by the Bureau of 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).

[3] Petitioners favor the examination of volume effects of the subject imports based on head count (petitioners' postconference brief, Answers to Staff Questions, pp. 4 and 7), whereas the Canadian Live Swine Exporter Coalition favors a calculation based on weight (Coalition's brief, p. 26).

Table IV-1
Live swine: U.S. imports, by sources, 2001-03

Source	Calendar year		
	2001	2002	2003
		Quantity (*head*)	
Canada	5,314,910	5,725,646	7,429,217
Other sources	0	602	191
Total	5,314,910	5,726,248	7,429,408
		Quantity (*1,000 pounds*)	
Canada	711,858	708,507	873,331
Other sources	0	147	5
Total	711,858	708,654	873,337
		Value (*1,000 dollars*)	
Canada[1]	352,922	307,501	398,491
Other sources	0	204	54
Total	352,922	307,706	398,545
		Unit value (*per pound*)	
Canada[1]	$0.50	$0.43	$0.46
Other sources	([2])	1.39	9.99
Average	0.50	0.43	0.46
		Average weight (*pounds per animal*)	
Canada	134	124	118
Other sources	([2])	244	28
Average	134	124	118
		Share of quantity by number of head (*percent*)	
Canada	100.0	100.0	100.0
Other sources	0.0	([3])	([3])
Total	100.0	100.0	100.0
		Share of quantity in pounds (*percent*)	
Canada	100.0	100.0	100.0
Other sources	0.0	([3])	([3])
Total	100.0	100.0	100.0
		Share of value (*percent*)	
Canada	100.0	99.9	100.0
Other sources	0.0	0.1	([3])
Total	100.0	100.0	100.0

[1] Values and unit values may be understated because of the ***.
[2] Not applicable.
[3] Less than 0.05 percent.

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

Source: Compiled from official Commerce statistics.

Table IV-2
Live swine: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 2001-03

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 head*)		
U.S. producers' U.S. shipments[1]	92,767	94,651	93,613
U.S. imports from--			
Canada	5,315	5,726	7,429
Nonsubject countries	0	1	([2])
All countries	5,315	5,726	7,429
Apparent U.S. consumption	98,082	100,378	101,043
	Quantity (*1,000 pounds*)		
U.S. producers' U.S. shipments[3]	25,152,081	25,852,792	26,002,408
U.S. imports from--			
Canada	711,858	708,507	873,331
Nonsubject countries	0	147	5
All countries	711,858	708,654	873,337
Apparent U.S. consumption	25,863,939	26,561,446	26,875,745
	Value (*1,000 dollars*)		
U.S. producers' U.S. shipments[4]	11,006,117	8,564,943	9,730,663
U.S. imports[5] from--			
Canada[6]	352,922	307,501	398,491
Nonsubject countries	0	204	54
All countries	352,922	307,706	398,545
Apparent U.S. consumption	11,359,039	8,872,648	10,129,207

[1] Commercial and farm slaughter minus the number of imports of Canadian live swine.
[3] 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 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 ***.

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

Source: Compiled from official USDA and Commerce statistics.

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. This is the methodology set forth by petitioners. This calculation and the resulting shares of U.S. and Canadian live swine are presented in the following tabulation (in *1,000 head* except as noted):

Item	2001	2002	2003
U.S. production	100,503	101,678	101,254
Exports (subtract)	47	88	123
U.S. imports: Canada	5,315	5,726	7,429
All other sources	0	1	([1])
Subtotal	5,315	5,726	7,429
Total new supply	105,771	107,316	108,560
Share (in percent) of total: U.S. production	95.0	94.7	93.2
Imports from Canada	5.0	5.3	6.8

[1] Less than 500 head.

Source: Compiled from official USDA and Commerce statistics.

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of live swine is presented in table IV-4. Imports from Canada were equivalent to 5.3 percent of U.S. production during 2001. This level increased to 7.3 percent during 2003.

Table IV-3
Live swine: U.S. consumption and market shares, 2001-03

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 head*)		
U.S. consumption	98,082	100,378	101,043
	Quantity (*1,000 pounds*)		
U.S. consumption	25,863,939	26,561,446	26,875,745
	Value (*1,000 dollars*)		
U.S. consumption	11,359,039	8,872,648	10,129,207
	Share of quantity by number of head (*percent*)		
U.S. producers' U.S. shipments	94.6	94.3	92.6
U.S. imports from--			
Canada	5.4	5.7	7.4
Nonsubject countries	0.0	([1])	([1])
All countries	5.4	5.7	7.4
	Share of quantity by weight (*percent*)		
U.S. producers' U.S. shipments	97.2	97.3	96.8
U.S. imports from--			
Canada	2.8	2.7	3.2
Nonsubject countries	0.0	([1])	([1])
All countries	2.8	2.7	3.2
	Share of value (*percent*)		
U.S. producers' U.S. shipments	96.9	96.5	96.1
U.S. imports from--			
Canada[2]	3.1	3.5	3.9
Nonsubject countries	0.0	([1])	([1])
All countries	3.1	3.5	3.9

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

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

Source: Compiled from official USDA and Commerce statistics.

Table IV-4
Live swine: Ratio of U.S. imports to U.S. production, by sources, 2001-03

Item	Calendar year		
	2001	2002	2003
	Ratio of U.S. imports to U.S. production (*percent*)		
Canada	5.3	5.6	7.3
Nonsubject countries	0.0	([1])	([1])
All countries	5.3	5.6	7.3

[1] Less than 0.05 percent.

Source: Compiled from official USDA and Commerce statistics.

PART V: PRICING AND RELATED DATA

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 discount from the base price; the price of pork and pork byproducts; weather conditions; input costs; and transportation costs.

RAW MATERIAL COSTS

As indicated in Part II, the primary input cost in the production of live swine is feed, which primarily consists of feed grains and protein concentrates; fat, minerals, amino acids, and antibiotics may also be included. The primary feed grain source is corn, though barley, grain sorghum, and feed wheat may also be used. The primary source of protein concentrate is soybean meal. While the price of these inputs does not directly affect the price of slaughter hogs, the cost of feed will be reflected in the willingness of grower/finishers to purchase feeder pigs and, therefore, will have some influence on the price of weanling and feeder pigs.

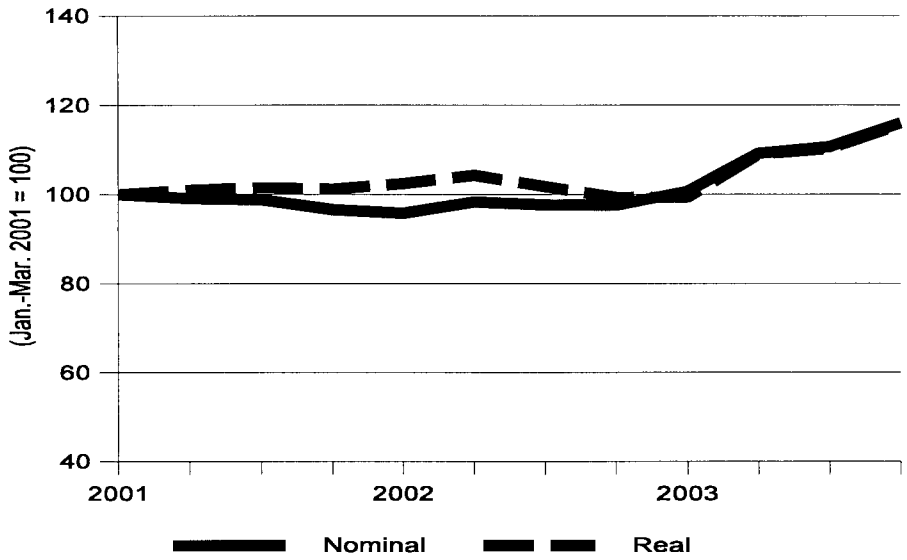
TRANSPORTATION COSTS TO THE U.S. MARKET AND U.S. INLAND TRANSPORTATION COSTS

Based on official import data, transportation costs of swine from Canada to the United States were estimated to average $1.05 per cwt in 2003. This was down from $1.12 in 2002 and $1.24 in 2001. Estimated costs, however, varied by the type of swine imported. In 2003, the cost per cwt was $1.21 for swine weighing less than 7 kg (about 15 pounds); $1.19 for swine weighing 7 to less than 23 kg (about 15 to 50 pounds); $0.75 for swine weighing 23 to 50 kg (about 50 to 110 pounds); $1.30 for swine for immediate slaughter; and $1.49 for other swine. Fixed costs of loading and unloading represent a significant portion of total shipping costs; therefore, U.S. inland transportation costs would be expected to be similar to import charges, and total transportation costs would most likely be no more than double the import charge. Based on these assumptions, during 2003, total shipping and import charges represented about 1 percent of the value of weanling and feeder pigs and about 6 percent of the value of swine for immediate slaughter.

EXCHANGE RATES

Monthly data reported by the International Monetary Fund indicate that the nominal and real values of the Canadian dollar varied within a narrow range from the first quarter of 2001 through the last quarter of 2002. Since the last quarter of 2002, the Canadian dollar has appreciated by about 16 percent in nominal terms and 15.6 percent in real terms (figure V-1).

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Canadian dollar relative to the U.S. dollar, by months, January 2001-December 2003



Source: International Monetary Fund, *International Financial Statistics* online at *http://ifs.apdi.net/*, retrieved May 3, 2004.

PRICING PRACTICES

In the past decade, hog pricing practices have changed greatly. In 1994, less than one-third of market hogs were priced on a carcass basis; most hogs were priced based on a live weight basis. In 2001, the Grain Inspection Packers and Stockyards Administration (GIPSA) reported that 72 percent of hogs were purchased on a carcass basis and that the 20 largest packers purchased nearly 85 percent of the hogs that they slaughtered on a carcass basis. Barrows and gilts are priced on a carcass-basis system that considers muscling in terms of loin area and depth, leanness in terms of back fat, and carcass weight. USDA reports high and low prices in a 5x10 grid system. The USDA data are based on a 185-pound base carcass weight; loin area minimums range from 4.0 square inches to 8.0 square inches; loin depth minimums range from 1.4 inches to 2.7 inches; and back fat maximum measurements range from 0.4 to 1.4 inches.[1] Carcass weight differentials are based on 10-pound ranges from 145 pounds to 225 pounds. Discounts for underweight carcasses can be substantial. In June 2003, discounts on carcasses weighing 145 to 165 pounds ranged from $0.00 to $28.49 per cwt. USDA price data are reported for three regions: Iowa-Minnesota, the Eastern Cornbelt, and the Western Cornbelt.[2]

In addition to being priced on a carcass- or live weight-basis, the price may be based on a negotiated price, on a spot market basis, or on some form of marketing contract where price is calculated based on a formula. During the past decade, the percentage of hogs sold on the negotiated or spot market

[1] Loin area and loin depth are combined into one measurement, e.g., loin area/depth: 4.0/1.4.

[2] The Eastern Cornbelt area consists of the following states: AL, GA, IL, IN, MD, MI, MS, NC, NY, OH, PA, SC, TN, and WI. The Western Cornbelt area, which overlaps with the Iowa-Minnesota region, consists of the following states: IA, KS, MN, MO, NE, and SD.

decreased from 62 percent in 1994 to 14 percent in 2003.[3] In their 2004 study of marketing contracts, Grimes et al. described six pricing categories (including the percentage of hogs sold in 2003) corresponding to those categories reported by USDA mandatory price reporting:

(1) Negotiated prices: hogs are priced on the spot or cash market on the day of delivery (13.5 percent of hogs sold on this basis in 2003);

(2) Swine or pork market formula: hogs are priced based on a contract formula that is tied to either a negotiated hog price or to meat prices (41.4 percent);

(3) Other market formula: hogs are priced based on a contract formula that is tied the futures markets (5.7 percent);

(4) Other purchase arrangement: this category includes hogs priced on contracts tied to feed prices, and other arrangements such as ledger contracts and window risk sharing contracts (19.2 percent);

(5) Packer-sold hogs: these are hogs produced by packers and sold to other packers; they are usually priced based on a contract formula (2.2 percent); and

(6) Packer-owned hogs: these are hogs produced by packers that they slaughter themselves; the transfer price is determined by a formula (18.1 percent).

Non-carcass Merit Premiums

In addition to variations in the price due to carcass characteristics and the type of contract, processors also offer other premiums and discounts not related to carcass value. These include premiums based on volume ($1.05 per cwt during 2003); transport ($1.50 per cwt during 2003); delivery time ($0.97 per cwt during 2003); and breed ($13.05 per cwt during 2003).

PRICE DATA

Barrows and Gilts for Slaughter

Public data were collected from USDA for the period of January 2001 through December 2003 for prices of U.S.-produced and Canadian swine sold in the United States (table V-1).[4] It is important to note that these public data include sales of both U.S. and Canadian hogs that are sold in the U.S. market. USDA price data are provided for the following swine:[5]

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[3] University of Missouri and Paragon Economics, *U.S. Hog Marketing Contract Study*, January 2004, found at: *http://agebb.missouri.edu/mkt/vertstud04.htm*, retrieved April 27, 2004.

[4] Price data were not collected in the producer and importer questionnaires sent by the Commission. Petitioners noted that they "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." Petitioners also noted that the "pricing data reported in USDA are complete and representative of the entire industry." (Petition, p. 50).

[5] In addition, price data from Statistics Canada are presented in Appendix E.

Table V-1
Live swine: Prices and quantities of weanlings, feeder pigs, market hogs, and sows, by month, January 2001 to April 2004

	USDA feeder pigs			USDA slaughter hogs			
	Segregated early weaned pigs	Composite 40-50 lb feeder pigs	All pigs	Market hogs Iowa-Minnesota direct		Sows	
Period	*U.S.$ per pig*		*Quantity*	*US$ per cwt*	*Quantity*	*US$ per cwt*	*Quantity*
2001:							
January	$35.87	$52.70	306,631	$49.32	384,706	$35.87	173,866
February	37.11	55.36	291,090	51.95	375,148	35.11	137,504
March	35.63	57.33	414,111	61.86	507,155	39.43	158,294
April	34.83	59.73	314,916	63.74	313,414	44.56	153,308
May	32.81	55.03	291,403	67.91	283,982	43.21	157,112
June	31.69	50.68	416,673	70.93	282,467	44.61	156,722
July	32.40	49.22	338,547	69.69	219,293	46.25	152,680
August	32.46	46.06	419,743	67.70	282,594	44.16	158,018
September	32.31	45.37	313,600	60.53	241,255	38.89	147,172
October	32.33	45.19	286,681	53.99	233,616	37.80	173,579
November	33.54	47.25	378,918	46.21	277,229	32.52	155,260
December	37.17	53.19	264,380	44.89	222,679	28.48	150,437
2002:							
January	39.05	57.53	284,700	51.37	360,966	29.98	159,685
February	41.00	60.75	308,484	53.10	327,773	31.89	136,724
March	35.54	58.02	381,463	48.70	413,297	34.19	150,724
April	29.72	46.76	310,782	42.37	353,477	29.61	159,552
May	27.36	37.69	375,154	45.49	407,850	27.79	194,638
June	19.78	25.55	276,529	50.13	366,752	24.29	172,430
July	20.95	22.80	282,875	53.85	311,978	23.04	204,198
August	16.96	20.77	389,607	44.49	452,098	22.26	202,040
September	16.75	18.29	309,329	36.00	364,726	17.87	176,354
October	24.09	28.33	312,392	42.50	330,135	22.65	195,488
November	29.46	40.25	484,475	38.19	454,409	23.83	173,387
December	34.51	50.11	340,402	41.37	343,060	26.58	169,805
2003:							
January	36.54	57.08	494,260	44.88	489,372	25.72	174,398
February	30.19	53.59	355,452	46.14	449,706	27.10	146,639
March	29.73	51.42	413,278	47.61	389,968	28.23	166,477
April	27.80	49.09	355,316	47.46	366,588	30.07	165,065
May	29.01	45.72	447,977	58.02	491,714	32.60	165,761
June	29.84	43.75	366,736	63.86	425,350	34.24	164,039
July	28.50	37.08	320,369	59.38	391,252	38.40	178,662
August	26.77	26.87	423,913	54.48	510,791	36.94	162,860
September	29.08	31.83	380,504	55.08	369,359	34.41	172,093
October	30.91	40.26	460,004	50.16	501,688	34.90	178,345
November	31.58	39.24	382,614	48.28	358,302	33.22	153,745
December	31.76	41.08	383,592	47.69	246,279	31.59	177,070
2004:							
January	33.09	43.00	564,690	52.55	337,652	32.13	196,422
February	32.49	48.64	441,670	59.74	329,985	40.3	176,291
March	30.75	47.18	434,408	64.01	354,048	45.08	180,987
April	31.12	51.97	527,809	64.35	299,930	45.29	209,289

Source: USDA, *U.S. Carlot Meat Trade Summary*, 2001, 2002, and 2003, and various daily reports.

Iowa-Minnesota Direct Hogs – The Iowa/Minnesota direct hog price is based on a spot market price paid for market hogs delivered to plants in Iowa and Minnesota. This price is based on a market hog with a 185-pound carcass, 0.9 to 1.1 inches of back fat, and a 6 square-inch loin with 2 inches of depth.[6] This price includes sales of any hogs exported from Canada to plants in Iowa and Minnesota and sold on a negotiated basis.

Sows–USDA data include volume, weight, and price data for sows (includes the major production areas of the Midwest and Eastern United States) and represent actual plant delivered prices to processors, including freight and commission based on the following weight ranges: 300-450 pounds; 450-500 pounds; 500-550 pounds; and 550 pounds or more. These data were used to construct a weighted-average sow price.

Public data collected from USDA for Iowa-Minnesota direct hogs indicate that prices have fluctuated during the period of investigation. However, at the end of the period for which data were collected (December 2003), the IA-MN price (for both U.S.-produced and Canadian products) was 3.3 percent lower than it was in the beginning (January 2001).

Weanling and Feeder Pigs

Public price data for weanling and feeder pigs were collected from USDA Market News Service for the period January 2001 through December 2003 (table V-1). These data include weanling and feeder pigs produced in both Canada and the United States. Confidential data on weanling and feeder pig sales were also provided by the Canadian Live Swine Exporters Coalition in its postconference brief;[7] these data are presented in appendix E. The price data provided are for the following type/size of swine:

USDA segregated early-weaned pigs: These prices represent direct farm-to-farm sales of weanling pigs that have been weaned at 19 days of age or less. Prices for sales of Canadian iso-wean pigs that meet these criteria are included in the data.

USDA 40-50-pound composite feeder pigs: These prices represent a composite of direct farm-to-farm sales of 40-pound, 45-pound, and 50-pound feeder pigs. Prices for sales of Canadian feeder pigs that meet these criteria are included in the data.

Data for weanlings sold in the United States (both U.S.-produced and Canadian swine) also fluctuated throughout the period, with prices 11.5 percent lower in December 2003 as compared to January 2001. Prices for feeder pigs (both U.S. and Canadian swine) declined by 22.1 percent from the beginning of the period (January 2001) to the end of the period (December 2003).

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[6] Prior to April 20, 2001, prices were based on voluntary price reporting. Mandatory price reporting was implemented after April 20, 2001.

[7] Canadian Live Swine Exporter Coalition's postconference brief, exh. 22.

Questionnaire Responses

The Commission's questionnaire asked importers of live swine that imported or purchased live swine to characterize the difference in price, if any, between the sales prices of U.S.-produced and Canadian live swine during 2001-03. Responses received are presented in the following tabulation (in number of importers responding for each category).

	About the same	Canada higher	U.S. higher
2001.....	9	3	2
2002.....	8	3	1
2003.....	6	3	3

LOST SALES AND LOST REVENUES

Petitioners stated in the petition that "specific information concerning lost sales and lost revenues are not provided in this petition because they are not readily available to petitioners."[8] The Commission sent questionnaires to U.S. live swine producers and asked (1) had their firm reduced prices of live swine in order to compete with imports of live swine from Canada, and (2) had their firm lost sales of domestic live swine due to competition from imports of live swine from Canada. A small number of firms provided information in response to the questions. Eight of 22 responding 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. These firms were unable to provide any specific information concerning any lost sales or lost revenues;[9] however, some firms noted that they had not reduced their prices because they were price takers and did not set prices in the first place.

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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

Financial data presented herein on the U.S. live swine industry are from both composite USDA data and from business proprietary responses of 67 live swine producers to Commission questionnaires. Presentation of aggregated financial data differs from the typical results of operations (income-and-loss) presented by Commission staff because many farms are operated as cash operations rather than adhering to accrual standards under generally accepted accounting principles (GAAP). Data for farm assets and capital expenditures are only available from Commission questionnaires.

There were 73,600 hog operations in the United States during 2003.[1] Four states (Iowa, North Carolina, Minnesota, and Illinois) accounted for approximately 59 percent of total hog cash receipts of $10.6 billion in 2003, which were down from $12.4 billion in 2001.[2] The 2003 U.S. pig crop, calculated from December 2002 - November 2003, totaled 101.3 million head, down from 101.7 million head in 2002 but up from 100.5 million head in 2001.[3] Although the U.S. live swine industry was once dominated by small farms engaged in traditional crop-hog operations, U.S. production is becoming more concentrated, with large operations producing live swine on multiple farms.[4] In 2002, nearly half of the U.S. live swine industry was owned by operations with more than 50,000 head.[5] These large operations allow farm specialization in one or more steps of the production chain (gestation, farrowing, nursery, and growing-finishing) and "coordinated production," in which large integrators contract production out to many live swine farmers.[6] Large U.S. live swine operations have a significant degree of vertical integration between live swine production and pork processing operations, providing increased control over hog genetics and production costs. For example, ***.[7]

The seven largest U.S. live swine producing organizations during 2003 that reported sales data to the Commission were Smithfield (*** million head), ***.[8] Together, these companies accounted for approximately 28 percent of the hogs produced in the United States during 2003.[9] Other live swine producers reporting data to the Commission with over 1 million head in sales during 2003 include ***.

Through its wholly owned Hog Production Group (HPG), Smithfield is the largest live swine operation in the world, with U.S. operations in eight states (North Carolina, Utah, Virginia, Colorado,

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[1] USDA, National Agricultural Statistics Service, *Livestock Operations, 2003 Summary*, April 2004, pp. 16-17.

[2] Ibid., p. 42.

[3] USDA, National Agricultural Statistics Service, *Meat Animals: Production, Disposition, and Income, 2002 Summary*, p. 10, and *2003 Summary,* pp. 10 and 14.

[4] William D. McBride and Nigel Key, USDA, ERS, *Economic and Structural Relationships in U.S. Hog Production*, February 2003, p. iii. The number of live swine producers has declined by 85 percent over the last 20 years. See also *PSF Group Holdings, Inc.*, 2003 Form 10-K, p. 5, found at *www.sec.gov*, downloaded April 6, 2004.

[5] William D. McBride and Nigel Key, USDA, ERS, *Economic and Structural Relationships in U.S. Hog Production*, February 2003, p. iii.

[6] Ibid., p. 1.

[7] *PSF Group Holdings, Inc.*, 2003 Form 10-K, p. 4, found at *www.sec.gov*, downloaded April 6, 2004.

[8] Table of 38 largest pork producers in the United States, *Successful Farming*, October 2003, p. 39, and data from Commission questionnaires.

[9] Commission questionnaires and USDA, National Agricultural Statistics Service, *Meat Animals: Production, Disposition, and Income, 2003 Summary*, p. 14.

South Carolina, Illinois, Texas, and Oklahoma).[10] "The HPG operates numerous hog production facilities with approximately 746,000 sows producing about 13.1 million market hogs annually."[11] Smithfield also signs multi-year contracts with independent farms that raise live swine produced with Smithfield's breeding stock. Approximately 71 percent of Smithfield's market hogs are raised on contract farms. In addition, Smithfield also maintains multi-year agreements with Maxwell Foods and Prestage Farms to purchase live swine for its pork processing plants. These purchases account for 15 approximately percent of Smithfield's processing needs.[12] Smithfield grew its live swine operation largely through acquisitions. In May 1999, the company purchased Carroll's Foods' live swine operation totaling 180,000 sows, and in January 2000, Smithfield acquired Murphy Farms, which owned approximately 345,000 sows.[13] During the period of investigation, Smithfield acquired two live swine operations: Land O' Lakes' Oklahoma farms in August 2001, totaling 8,000 sows, and Vall, Inc. (19,000 sows) in November 2002. In 2002, Smithfield's hog production was approximately 13 percent of the U.S. pig crop and 11 percent of U.S. marketings (which include imports).[14]

Premium Standard produces hogs in Missouri, North Carolina, and Texas. The company achieved its current size through both acquisitions and new start-up facilities.[15] In May 1998, Premium Standard purchased live swine operations in Missouri that had been owned by ContiGroup. In 2000, Premium Standard purchased two operations in North Carolina, the live swine production facilities of the Lundy Packing Company in August 2000, and Premium Standard Farms in September 2000.[16] On the other hand, Premium Standard's Texas operations were started by the company and expanded in fiscal year 2003 (ending March 2003) to its current size totaling 34,000 sows.[17] As with Smithfield and most large, integrated producers, Premium Standard does not own many of the farms on which its live swine are raised. This is especially true in North Carolina, where contract grower agreements with farmers stipulate that the farmers will provide the land, space, and labor needed for live swine production. Premium Standard owns the live swine, feed, and supplies, and the grower agreements are managed by Premium Standard's hog production field supervisors.[18]

Operations of Swine Producers

Combined income-and-loss data for reporting U.S. live swine producers are presented in table VI-1; operations data for those producers on per-pound basis are listed in table VI-2. Compared with 2003 U.S. pig crop data compiled by the USDA, data responses to Commission questionnaires represented approximately 38 percent of live swine production in the United States during 2003 and provide a cross-section of large and small producers ranging from ***. Selected financial data for the seven largest U.S. live swine producers reporting data are listed in table VI-3.

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[10] *Smithfield Foods, Inc.*, 2003 Form 10-K, p. 11, found at *www.sec.gov*, downloaded March 1, 2004.

[11] Ibid., p. 10.

[12] Ibid., p. 7.

[13] Ibid., p. 5.

[14] USDA, National Agricultural Statistics Service, *Meat Animals: Production, Disposition, and Income, 2002 Summary*, p. 14.

[15] *PSF Group Holdings, Inc.*, 2003 Form 10-K, p. 4, found at *www.sec.gov*, downloaded April 6, 2004.

[16] Ibid.

[17] Ibid., p. 9.

[18] Ibid.

Table VI-1
Results of operations of reporting U.S. live swine producers, fiscal years 2001-03

Item	2001	2002	2003
		Quantity (*head*)	
Feeder pigs: early weaned or less than 15 pounds	1,900,333	2,441,699	2,375,420
Feeder pigs: 15 pounds to less than 50 pounds	1,057,573	1,068,175	890,178
Feeder pigs: 50 pounds to less than 110 pounds	1,754,575	1,782,446	1,873,689
Market hogs ready for slaughter	28,225,452	30,240,753	31,774,655
Other hogs (culls; slow grows; sows and boars)	1,013,516	1,073,543	1,168,776
Total net sales	33,951,449	36,606,616	38,082,718
		Value (*1,000 dollars*)	
Feeder pigs: early weaned or less than 15 pounds	64,022	77,798	77,078
Feeder pigs: 15 pounds to less than 50 pounds	44,905	43,228	39,810
Feeder pigs: 50 pounds to less than 110 pounds	90,689	91,569	75,641
Market hogs ready for slaughter	3,294,627	2,893,395	3,186,539
Other hogs (culls; slow grows; sows and boars)	115,836	105,622	90,361
Total net sales	3,610,079	3,211,612	3,469,428
Operating expenses:			
Cost of purchasing pigs:			
Feeder pigs: early weaned or less than 15 pounds	17,740	26,544	39,627
Feeder pigs: 15 pounds to less than 50 pounds	25,744	27,278	32,863
Feeder pigs: 50 pounds to less than 110 pounds	4,295	3,578	696
Total	47,780	57,400	73,185
Feed costs	1,262,036	1,383,891	1,578,459
Housing, fencing and feeders	275,332	292,742	303,121
Breeding expenses (replacement gilts & boars, artificial insemination, and other supplies)	129,885	143,324	157,299
Vaccination, medication and other medical costs	101,788	99,732	98,213
Sanitation, pest control, and waste and carcass disposal	30,143	29,933	30,140
Land rent and/or mortgage payments	41,166	41,668	43,716
Labor	307,411	330,020	344,534
Utilities (electric, gas, telephone, etc.)	41,955	40,722	43,922
Insurance	5,713	7,479	8,434
Interest	79,538	51,539	54,871
Depreciation	118,891	127,212	128,512
Transportation to processors	53,668	58,780	64,188
Marketing fees and expenses	9,448	9,010	10,054
All other expenses	579,000	682,816	685,669
Total operating expenses	3,083,753	3,356,268	3,624,319
Net income or (loss) before income taxes	526,326	(144,657)	(154,891)
Other items:			
Annual capital expenditures	75,705	261,017	118,869
Total assets	2,303,172	2,509,237	2,776,449

Continued on the following page.

Table VI-1--*Continued*
Results of operations of reporting U.S. live swine producers, fiscal years 2001-03

Item	2001	2002	2003
(Top five costs in 2003 and total operating expenses)	**Ratio to net sales (*percent*)**		
Feed costs	35.0	43.1	45.5
Labor	8.5	10.3	9.9
Housing, fencing and feeders	7.6	9.1	8.7
Breeding expenses	3.6	4.5	4.5
Depreciation	3.3	4.0	3.7
Total operating expenses	85.4	104.5	104.5
Net income or (loss) before income taxes	14.6	(4.5)	(4.5)
	Number of firms reporting		
Net losses	14	45	44
Data	61	64	67
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-2
Selected results of operations (per pound) of reporting U.S. live swine producers, fiscal years 2001-03

Item	2001	2002	2003
	Unit value (*per head*)		
Sales of feeder pigs: Early weaned or < 15 pounds	$33.69	$31.86	$32.45
Sales of feeder pigs: 15 pounds to < 50 pounds	42.46	40.47	44.72
Sales of feeder pigs: 50 pounds to < 110 pounds	51.69	51.37	40.37
Sales of market hogs ready for slaughter	116.73	95.68	100.29
Sales of other hogs (culls, sows and boars, etc.)	114.29	98.39	77.31
Total net sales	106.33	87.73	91.10
Feed costs	37.17	37.80	41.45
Labor	9.05	9.02	9.05
Housing, fencing and feeders	8.11	8.00	7.96
Breeding expenses	3.83	3.92	4.13
Depreciation	3.50	3.48	3.37
Total operating expenses	90.83	91.68	95.17
Net income or (loss) before income taxes	15.50	(3.95)	(4.07)
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-3
Selected results of operations of the seven largest reporting U.S. live swine operations, by firms, 2001-03

* * * * * * *

The quantity of live swine sold by the reporting producers grew during the period of investigation from 34.0 million head in 2001 to 38.1 million head in 2003. But total sales value declined from $3.61 billion in 2001 to $3.47 billion in 2003. Total net sales value per head decreased from $106.33 in 2001 to $91.10 in 2003, a decline of 14.3 percent over the period. Unit values for each of the categories comprising total net sales value per head also fell over the period, except for those of sales of feeder pigs from 15 pounds to 50 pounds. The unit values of feeder pigs in this weight category actually rose from $42.46 in 2001 to $44.72 in 2003, but the number of head sold by the U.S. industry in this category declined from 1.06 million in 2001 to 890,000 in 2003.

As total net sales value for the reporting U.S. producers declined during 2001-03, operating expenses increased from $3.08 billion in 2001 to $3.62 billion in 2003. Feed costs are the largest single factor driving the cost structure of the reporting U.S. producers, rising from $1.26 billion in 2001 to $1.58 billion in 2003. Even more telling is that feed costs per head rose from $37.17 in 2001 to $41.45 in 2003, an increase of 11.5 percent. As a percent of total sales value, feed costs rose from 35.0 percent in 2001 to 43.1 percent in 2002, and were up again to 45.5 percent in 2003. Per-head breeding expenses also increased over the period, while per-head labor costs remained flat and per-head depreciation and housing expenses declined.

A simplified variance analysis for the reporting U.S. live swine producers is presented in table VI-4. This analysis is derived from information presented in table VI-1 and provides an assessment of changes in net profitability as related to changes in pricing, cost, and volume. A full variance analysis, including SG&A expenses, was not possible because the Commission's producers' questionnaire requested expenses typical of farming operations.

Variance analysis is most effective when the product involved is a homogeneous product with no variation in product mix within a firm and between firms. Although live swine vary in size and price, the number of feeder pigs (of all sizes), market hogs, and other hogs produced in the United States as a percentage of the total number of head produced did not shift dramatically during 2001-03. The analysis shows that the unfavorable net income variance from 2001 to 2003 was attributable to an unfavorable total net sales price variance, as well as unfavorable cost variances. These unfavorable variances were only partially offset by a favorable net sales volume variance, causing the reporting producers to experience net losses.

INVESTMENT IN PRODUCTIVE FACILITIES AND CAPITAL EXPENDITURES

Responding firms' data on capital expenditures and total asset values for their live swine operations are shown in table VI-1. Capital expenditures increased from $75.7 million in 2001 to $118.9 million in 2003. Most of the increase can be attributed to ***.

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 F.

Table VI-4
Variance analysis for live swine operations, 2001-03

Item	Fiscal years		
	2001-03	2001-02	2002-03
Total net sales:			
Price variance	(579,931)	(680,793)	128,314
Volume variance	439,280	282,326	129,503
Total net sales variance	(140,651)	(398,467)	257,817
Operating expenses:			
Cost variance	(165,329)	(31,351)	(132,715)
Volume variance	(375,236)	(241,164)	(135,336)
Total cost variance	(540,566)	(272,515)	(268,051)
Net profit variance	(681,216)	(670,982)	(10,234)
Summarized as:			
Price variance	(579,931)	(680,793)	128,314
Net cost/expense variance	(165,329)	(31,351)	(132,715)
Net volume variance	64,044	41,161	(5,833)

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

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

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 and 2002, the latest year for which data are available.[19] As noted in footnotes below, these data generally agree with the financial trends reported by U.S. producers in the Commission's questionnaires. The gross value of production, comparable to revenues, was $62.00 per hundredweight (cwt) in 2001 but declined to $47.03 per cwt in 2002.[20] An increase in feed costs from 2001 to 2002 was completely offset by lower feeder pig costs over the period, resulting in an overall decline in total cash expenses from 2001 to 2002. But the decline in expenses was less pronounced than the decline in gross value of production. Therefore, production less cash expenses, comparable to net profits, was $5.01 per cwt in 2001 but declined to a loss of $6.89 per cwt in 2002.[21]

USDA production costs and returns data for live swine are somewhat limited in their scope. The data were originally developed from a 1998 survey base year, and the average operation size, averaging 1,511 head of market hogs in 2001 and 1,616 in 2002, is small compared to modern U.S. commercial hog farms. A majority of U.S. production volume now derives from large, integrated, commercial operations rather than family farms.

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[19] The data do not include owner labor.

[20] At a conversion rate of 260 pounds per market hog, Commission questionnaires reported a unit value for market hogs of $44.89 per cwt in 2001 and $36.80 per cwt in 2002, a decline of 18 percent.

[21] Commission questionnaires also reported that net profits for the U.S. industry in 2001 changed to net losses in 2002.

Table VI-5
Hog production cash costs and returns per hundredweight gain, 2001 and 2002

Item	2001	2002
	Value (*per cwt*)	
Gross value of production:		
Market hogs	$42.97	$32.50
Feeder pigs	14.35	11.24
Cull stock	1.39	0.89
Breeding stock	1.01	0.66
Inventory change	0.63	0.42
Other income[1]	1.65	1.32
Total gross value	62.00	47.03
Cash expenses:		
Feed:		
Grain	5.34	6.23
Protein sources	4.62	4.68
Complete mixes	10.22	10.43
Other feed items	0.18	0.18
Total feed costs	20.36	21.52
Other:		
Feeder pigs	16.63	12.99
Veterinary and medicine	1.10	1.08
Bedding and litter	0.03	0.03
Marketing	1.05	1.04
Custom services	0.42	0.41
Fuel, electricity	1.32	1.17
Repairs	0.78	0.79
Hired labor	2.39	2.55
Interest on operating capital	0.70	0.33
Other operating costs[2]	0.04	0.04
Total operating costs	44.82	41.95
General farm overhead	0.97	0.99
Taxes and insurance	0.46	0.45
Depreciation	10.74	10.53
Total fixed expense	12.17	11.97
Total cash expenses	56.99	53.92
Gross value of production less cash expenses	5.01	(6.89)

[1] Other income includes the value of manure production.
[2] Other operating costs include odor and control fees, permits, licenses, and other regulatory costs.

Source: Compiled from official statistics of the USDA.

The cash costs and returns for 2002, by industry segment, are presented in table VI-6. The hog production segment data in table VI-6 are the same as those shown in table VI-5. The farrow-to-finish segment is a combination of the farrow-to-feeder-pig segment and the feeder-pig-to-finish segment. All industry segments except the farrow-to-feeder pig segment were unprofitable in 2002.[22]

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 National School Lunch Program; and (3) to provide food to the elderly, needy families, and other charitable institutions.[23] During fiscal year 2003 (through September 2003), the USDA purchased 51.61 million pounds of pork totaling $57.5 million.[24] The USDA purchases only pork products of 100-percent domestic origin.[25]

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[22] A more detailed discussion of these production segments is discussed earlier in the report.

[23] "Veneman announces $30 million purchase of pork products," USDA News Release, September 9, 2002, found at *www.usda.gov*, downloaded April 22, 2004.

[24] *Frozen Pork, Purchases by Vendor, fiscal year 2003*, Livestock and Seed Program, AMS, USDA, found at *www.ams.usda.gov*, downloaded April 22, 2004.

[25] "Veneman announces $30 million purchase of pork products," USDA News Release, September 9, 2002, found at *www.usda.gov*, downloaded April 22, 2004.

Table VI-6
U.S. production cash costs and returns for hog production, farrow-to-finish, farrow-to-feeder pig, and feeder pig-to-finish, 2002

Item	Hog production	Farrow-to-finish	Farrow-to-feeder pig	Feeder pig-to-finish
	Value (*per cwt*)			
Gross value of production:				
Market hogs	$32.50	$32.20	$1.61	$38.86
Feeder pigs	11.24	0.59	94.07	0.31
Cull stock	0.89	1.46	2.13	0.24
Breeding stock	0.66	0.14	0.18	0.25
Inventory change	0.42	(0.04)	(4.02)	1.40
Other income[1]	1.32	1.35	1.23	1.30
Total gross value expense	47.03	35.70	95.20	42.36
Cash expenses:				
Feed:				
Grain	6.23	10.23	2.16	3.95
Protein sources	4.68	8.27	0.89	2.42
Complete mixes	10.43	4.68	25.69	12.65
Other feed items	0.18	0.33	0.23	0.06
Total feed costs	21.52	23.51	28.97	19.08
Other variable expenses:				
Feeder pigs	12.99	0.09	0.56	23.17
Veterinary and medicine costs	1.08	1.47	2.78	0.46
Bedding and litter	0.03	0.04	0.06	0.01
Marketing	1.04	0.38	3.77	0.90
Custom services	0.41	0.31	0.29	0.44
Fuel, lube, and electricity	1.17	1.35	3.31	0.66
Repairs	0.79	1.18	1.15	0.39
Interest on operating capital	0.33	0.24	0.34	0.38
Other operating costs [2]	0.04	0.04	0.04	0.03
Hired labor	2.55	3.29	13.05	0.74
Total variable expenses	41.95	31.90	54.32	46.26
General farm overhead	0.99	1.32	1.60	0.64
Taxes and insurance	0.45	0.54	0.94	0.32
Depreciation	10.53	11.95	27.53	6.76
Total fixed expenses	11.97	13.81	30.07	7.72
Total cash expenses	53.92	45.71	84.39	53.98
Gross value of production less cash expenses	(6.89)	(10.01)	10.81	(11.62)

[1] Other income includes the value of manure production.
[2] Other operating costs include odor and control fees, permits, licenses, and other regulatory costs.

Source: Compiled from official statistics of the USDA.

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 nature of the alleged subsidies was presented earlier in this report; 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 all firms identified in the petition as possible Canadian producers/exporters of subject merchandise, as well as Canadian live swine producers identified in information provided by Customs. Thirty-one Canadian producers/exporters of live swine provided responses to the Commission's request for information. However, for complete coverage of the Canadian industry, Statistics Canada data are presented.

THE INDUSTRY IN CANADA

The Canadian industry is much less concentrated than the United States live swine industry. Respondents claim that increased U.S. imports of Canadian isowean/feeder live swine are a result of U.S. demand for healthy animals and a result of the imbalance of supply of isoweans/feeders caused by the U.S. industry's focus on live swine finishing.[1] Data for the Canadian live swine industry are presented in table VII-1. Table VII-2 presents live swine inventories by province in Canada.

Canada's number of breeding stock of live swine increased by 8.5 percent and production increased by 11.1 percent from 2001 to 2003. Canadian home market sales and exports to the United States increased by 8.9 percent and by 39.6 percent, respectively, from 2001 to 2003. Canada's end-of-period inventories increased from 2001 to 2002 and then decreased slightly in 2003, but increased overall by 1.7 percent. Table VII-3 presents slaughter capacity of the Canadian industry. From 2001 to 2003, Canada's slaughter capacity increased by 9.1 percent.

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 few weeks. There is no economic incentive to keep inventories of slaughter hogs. Live swine that enter the United States at younger stages (isoweans and/or feeders) are imported/purchased by U.S. finishers who feed them until they grow to full slaughter weight.

U.S. IMPORTERS' IMPORTS SINCE DECEMBER 31, 2003

U.S. importers were asked whether they imported or arranged for the importation of live swine from Canada for delivery after December 31, 2003. Responding U.S. importers indicated that they had

[1] Postconference brief of the Canadian Live Swine Exporter Coalition, p. 10.

Table VII-1
Live swine: Canadian breeding stock, inventories, production, and shipments, 2001-03

Item	Actual experience		
	2001	2002	2003
	Quantity (*1,000 head*)		
Breeding stock	1,479	1,551	1,604
Production[1]	30,801	32,406	34,213
Production[2]	28,199	29,645	31,309
Shipments: Internal consumption	0	0	0
Home market[3]	22,067	23,613	24,022
Exports to-- The United States Feeder swine	3,169	3,757	4,971
Swine for slaughter	2,152	1,966	2,458
Total	5,321	5,723	7,429
All other markets	([4])	([4])	0
Total exports	5,321	5,724	7,429
Total shipments	27,388	29,337	31,451
End-of-period inventories	14,367	14,672	14,608
	Ratios and shares (*percent*)		
Share of total quantity of shipments: Internal consumption	0.0	0.0	0.0
Home market	80.6	80.5	76.4
Exports to-- The United States Feeder swine	11.6	12.8	15.8
Swine for slaughter	7.9	6.7	7.8
Total	19.4	19.5	23.6
All other markets	0.0	0.0	0.0
All export markets	19.4	19.5	23.6

[1] Canadian pig crop (pigs born).
[2] 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.
[3] Slaughter plus deaths and condemnations.
[4] Less than 500 head.

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

Source: Compiled from Statistics Canada and Canadian Pork Council's postconference brief, p. 31.

Table VII-2
Live swine: Canadian inventories, by province, as of January 1, 2003

Province	*(1,000 head)*
Alberta	2,140
Atlantic	374
British Columbia	162
Manitoba	2,825
Ontario	3,661
Quebec	4,280
Saskatchewan	1.230
Total	14,672
Source: Statistics Canada.	

Table VII-3
Live swine: Canadian live swine slaughter capacity, 2001-03

Item	Calendar year		
	2001	2002	2003
	Quantity *(1,000 head)*		
Canadian industry	19,415	20,803	21,185
Source: Postconference brief of the Canadian Live Swine Exporter Coalition, p. 48.			

arranged for imports of over 34,070 head of live swine per week. With regard to imports in 2004, a recent USDA publication stated that:

> "January 1, 2004, breeding herd inventories (up 6 percent) recorded by Statistics Canada in Manitoba and Ontario–the source of most imported Canadian feeder pigs–make it likely that increased numbers of feeder animals will cross the border in 2004. Slaughter hog imports are expected to decline however, given strong Asian demand for pork products. The lower valued U.S. dollar will translate into fewer Canadian dollars, making feeder pig operations less profitable this year. But with hog prices driving strong hog finishing demand in the United States, and few marketing alternatives in Canada, it is likely that U.S. imports of Canadian hogs will be record large--7.8 million head--again in 2004."[2]

COUNTERVAILING AND/OR ANTIDUMPING DUTY ORDERS IN THIRD COUNTRIES

There are no known countervailing or antidumping duty orders on live swine from Canada in any country, and there are no known such investigations in any country other than the current investigations in the United States.

[2] *Livestock, Dairy & Poultry Outlook*, LDP-M-117, March 16, 2004, p. 10.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–438 (Preliminary) and 731–TA–1076 (Preliminary)]

Live Swine From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping investigations Nos. 701–TA–438 (Preliminary) and 731–TA–1076 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from Canada of live swine,[1] provided for in subheading 0103.91.00 and 0103.92.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by federal and provincial governments in Canada and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty and antidumping investigations in 45 days, or in this case by April 19, 2004. The Commission's views are due at Commerce within five business days thereafter, or by April 26, 2004.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

EFFECTIVE DATE: March 5, 2004.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), 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://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. These investigations are being instituted in response to a petition filed on March 5, 2004, by the National Pork Producers Council, the Arizona Pork Council, Georgia Pork Producers Association, Idaho Pork Producers Association, Illinois Pork Producers Association, Indiana Pork Producers Council, Iowa Pork Producers Association, Kentucky Pork Producers Association, Michigan Pork Producers Association, Minnesota Pork Producers Association, Missouri Pork Association, Montana Pork Producers Council, Nebraska Pork Producers Association,

[1] Excluded from the scope of the investigations is U.S. Department of Agriculture certified purebred breeding swine.

New York Pork Producers Inc., North Carolina Pork Council, Ohio Pork Producers Council, Pennsylvania Pork Producers Council, South Dakota Pork Producers Council, Tennessee Pork Producers Association, Texas Pork Producers Association, and the Wisconsin Pork Association, as well as a substantial number of individual producers.

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 26, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than March 22, 2004, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 31, 2004, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 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 § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the 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 § 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 10, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–5837 Filed 3–15–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–850]

Notice of Initiation of Antidumping Investigation: Live Swine From Canada

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

ACTION: Initiation of Antidumping Investigation.

SUMMARY: The Department of Commerce is initiating an antidumping investigation to determine whether producers and exporters of live swine from Canada are selling live swine to the United States at less than fair value.

EFFECTIVE DATE: April 14, 2004.

FOR FURTHER INFORMATION CONTACT: Judith Wey Rudman at (202) 482–0192, Cole Kyle at (202) 482–0192, or Andrew Smith at (202) 482–1276; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Petition

Between March 5 and 30, 2004, the Department of Commerce ("the Department") received a petition, and amendments to the petition, filed in proper form by 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]

[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

Continued

(hereinafter "the petitioners"). The Department received information supplementing the March 5, 2004, petition on March 18, 22, and 30, 2004. On March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004, in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. *See* March 25, 2004, memorandum from Jeffrey May, Deputy Assistant Secretary for Import Administration, Group I, to James J. Jochum, Assistant Secretary for Import Administration, entitled "Antidumping and Countervailing Duty Petitions on Live Swine from Canada: Extension of Deadline for Determining Industry Support" ("*Initiation Extension Memo*"), which is on file in the Department's Central Records Unit ("CRU") in Room B–099 of the main Department building.

In accordance with section 732(b) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"), the petitioners allege that imports of live swine from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties, as defined in section 771(9)(E) and (F) of the Act, and have demonstrated sufficient industry support in accordance with section 732(c)(4)(A). *See infra,* "Determination of Industry Support for the Petition."

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., Levelue 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 products covered by this investigation are all live swine from Canada except U.S. Department of Agriculture ("USDA") certified purebred breeding 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 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, 0103.92.0090.[2]

Although the *HTSUS* subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of an investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (1) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (2) determine industry support using a statistically valid sample.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[3]

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

The domestic like product referred to in the petition is the domestic like product defined in the "Scope of Investigation" section above. No party has commented on the petition's definition of the domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

[2] Prior to June 30, 2003, *HTSUS* subheadings 0103.91.0010, 0103.91.0020, and 0103.91.0030 were all included under one heading, *HTSUS* 0103.91.0000.

[3] *See USEC, Inc.* v. *United States*, 132 F. Supp. 2d 1 (CIT 2001), citing *Algoma Steel Corp. Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988).

As noted above, on March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004, in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. *See Initiation Extension Memo.* The Department has determined that, pursuant to section 732(c)(4)(A) of the Act, the petition contains adequate evidence of industry support (*see*, April 7, 2004, "Office of AD/CVD Enforcement Initiation Checklist" ("*Initiation Checklist*") on file in the CRU). We determine that the petitioners have demonstrated industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are met. The Department received no opposition to the petition. Accordingly, we determine that the petition is filed on behalf of the respective domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). The petitioners contend that the industry's injured condition is evident in the declining trends in financial indicators, depression of prices, declining profitability, production volume and value, lost market share, and lost jobs. The petitioners further allege threat of injury due to excess production in Canada and increased import volumes and market penetration, causing further price depression. The allegations of injury and causation are supported by relevant evidence including U.S. Census Bureau import data, USDA and University of Iowa data, hog statistics from Statistics Canada, and a report by the Chicago Mercantile Exchange. We have assessed the allegations and supporting evidence regarding material injury and causation and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Initiation Checklist*).

Initiation Standard for Cost Investigations

Pursuant to section 773(b) of the Act, the petitioner submitted information providing reasonable grounds to believe or suspect that sales made by Canadian producers/exporters in the home market were at prices below the cost of production ("COP") and, accordingly, requested that the Department initiate a country-wide sales-below-COP investigation in connection with this investigation. The Statement of Administrative Action ("SAA"), submitted to the Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP needs not be specific to individual exporters or producers. *See* SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that section 773(b)(2)(A) of the Act requires that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.* We have analyzed the country-specific allegation as described below (*see infra*, "Normal Value").

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation. A more detailed description of these allegations is provided in the *Initiation Checklist.* Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, as appropriate.

Export Price

The petitioners calculated export price ("EP"), based on January through December 2003 average unit values ("AUVs") from import data contained on the U.S. ITC's Dataweb, for comparison to NV. The petitioners calculated two separate EPs, one based on imports of live swine weighing less than 50 kilograms ("feeder") and the other based on imports of live swine weighing 50 kilograms or more ("finish"). We note that the petitioners calculated EP for finish animals based on imports of live swine classifiable only under *HTSUS* 0103.92.0010. *HTSUS* 0103.92.0090 also includes imports of lives swine weighing 50 kilograms or more. Therefore, we revised EP for finish animals to also include imports of live swine classifiable under *HTSUS* 0103.92.0090. The petitioners made no deductions to EP. For further discussion, *see* the *Initiation Checklist.*

Normal Value

Price-to-Price Comparisons

To determine NV based on home market prices, the petitioners used monthly pricing information from "Swine Enterprise Budgets," published by the Government of Ontario's Ministry of Agriculture and Food, for the period January through December 2003. The petitioners took an average of the farrow-to-feeder and an average of the finish prices listed in this source to compare to the two calculated EPs, as described above (*see supra*, "Export Price"). As with EP, the petitioners made no deductions to NV. For further discussion, *see* the *Initiation Checklist.*

We made one minor adjustment to the petitioners' calculations. The petitioners used the incorrect farrow-to-feeder unit prices for October, November, and December 2003 in their calculation of the NV average price for the period. Accordingly, we revised the farrow-to-feeder NV unit prices for October, November, and December 2003 and recalculated the NV average price for the period. For further discussion, *see* the *Initiation Checklist.*

Based on the price-to-price comparisons described above, the margins in the petition, as adjusted by the Department, range from 0.00 to 18.87 percent.

EP-to-CV Comparisons

The petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of live swine from Canada were made at prices below the fully absorbed COP in the home market, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation of such sales.

Pursuant to section 773(b)(3) of the Act, the COP consists of cost of manufacture plus amounts for selling, general, and administrative expenses and packing costs. The petitioners calculated the COP based on the same publicly available data as the NV price calculation, "Swine Enterprise Budgets," published by the Government of Ontario's Ministry of Agriculture and Food. The "Swine Enterprise Budgets" provides estimates for the COP for a swine enterprise for the year 2003. Because the provincial government is the source for the information, we found this information reasonable for use in the COP calculation. We relied on the COP calculations submitted by the petitioners except as follows. Petitioners in their calculations used the cost of "finished pig" as shown in the "Swine Enterprise Budgets" based on the cost of a finishing barn which purchases feeder pigs rather than raising pigs from farrow to finish. We revised the petitioners' calculation of the COP for "finished pig" by substituting the COP of "farrow-to finish pig", also shown in the "Swine Enterprise Budgets," which more accurately reflects the total cost of producing a finished pig.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product in the home market were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation for the Canadian home market.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners also based NV for sales in the home market on CV. The petitioners calculated CV starting with the same COP figure used to compute home market costs. Consistent with section 773(e)(2) of the Act, the petitioners also included in CV an amount for profit. For profit, the petitioners state that they were unable to obtain financial statements from any Canadian swine farming operation. As a result, they based CV profit on a company in a related field of production, pork processing. However, we revised the petitioners' CV profit calculation. Instead of basing CV profit on a pork processor, we based our profit calculation on the "Swine Enterprise Budgets" because it represents the profit for the "same general category of products" as the merchandise listed in the scope of this initiation, consistent with Section 773(e)(2)(B) of the Act. For further discussion, *see* the *Initiation Checklist*.

Based upon the comparison of EP to CV, after adjustments by the Department, the petitioners calculated estimated dumping margins ranging from 13.22 to 66.48 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of live swine from Canada are being, or are likely to be, sold at less than fair value.

Initiation of Antidumping Investigation

Based upon our examination of the petition on live swine from Canada, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping investigation to determine whether imports of live swine from Canada are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 773(c)(1) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Canada. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2) (2004).

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of live swine from Canada are causing material injury, or threatening to cause material injury, to a U.S. industry.

See section 733(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 7, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–8478 Filed 4–13–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–851]

Notice of Initiation of Countervailing Duty Investigation: Live Swine From Canada

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

ACTION: Initiation of countervailing duty investigation.

SUMMARY: The Department of Commerce is initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of live swine from Canada receive countervailable subsidies.

EFFECTIVE DATE: April 14, 2004.

FOR FURTHER INFORMATION CONTACT: Melani Miller, Blanche Ziv, or S. Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0116, (202) 482–4207, and (202) 482–3853, respectively.

Initiation of Investigation

The Petition

Between March 5 and 31, 2004, the Department of Commerce ("the Department") received a petition, and amendments to the petition, filed in proper form by 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"). The Department received supplements to the March 5, 2004 petition on March 18, 22, 30, and 31, 2004. On March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004 in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. *See* March 25, 2004 memorandum from Jeffrey May, Deputy Assistant Secretary for Import Administration, Group I, to James J. Jochum, Assistant Secretary for Import Administration, entitled "Antidumping and Countervailing Duty Petitions on Live Swine from Canada: Extension of Deadline for Determining Industry Support" ("*Initiation Extension Memo*"), which is on file in the Department's Central Records Unit ("CRU") in Room B–099 of the main Department building.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 ("the Act"), the petitioners allege that manufacturers, producers, or exporters of live swine ("swine" or "subject merchandise") from Canada receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties, as defined in sections 771(9)(E) and (F) of the Act, and have demonstrated sufficient industry support in accordance with section 702(c)(4)(A) of the Act. *See infra,* "Determination of Industry Support for the Petition."

Scope of Investigation

The products covered by this investigation are all live swine from Canada except U.S. Department of Agriculture ("USDA") certified purebred breeding 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 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, 0103.92.0090.[2]

Although the *HTSUS* subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Canada ("GOC") for consultations with respect to the petition filed. The Department held consultations with the GOC on March 19, 2004. The points raised in the consultations are described in the consultation memorandum to the file dated March 19, 2004 and in the GOC's March 23, 2004 submission to the Department, both of which are on file in the Department's CRU.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (1) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (2) determine industry support using a statistically valid sample.

[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.

[2] Prior to June 30, 2003, *HTSUS* subheadings 0103.91.0010, 0103.91.0020, and 0103.91.0030 were all included under one heading, *HTSUS* 0103.91.0000.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law. *See USEC, Inc.* v. *United States*, 132 F. Supp 2d 1 (CIT 2001), citing *Algoma Steel Corp. Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988).

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

The domestic like product referred to in the petition is the domestic like product defined in the "Scope of Investigation" section above. No party has commented on the petition's definition of the domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

As noted above, on March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004 in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. *See Initiation Extension Memo.* The Department has determined that, pursuant to section 702(c)(4)(A) of the Act, the petition contains adequate evidence of industry support. *See* April 7, 2004 memorandum "Office of AD/CVD Enforcement Initiation Checklist" ("*Initiation Checklist*"), which is on file in the CRU. We determine that the petitioners have demonstrated industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 702(c)(4)(D) of the Act. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 702(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 702(c)(4)(A)(ii) are met. The Department received no opposition to the petition. Accordingly, we determine that the petition is filed on behalf of the respective domestic industry within the meaning of section 702(b)(1) of the Act.

Injury Test

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioners contend that the industry's injured condition is evident in the declining trends in financial indicators, depression of prices, declining profitability, production volume and value, lost market share, and lost jobs. The petitioners further allege threat of injury due to excess production in Canada and increased import volumes and market penetration, causing further price depression. The allegations of injury and causation are supported by relevant evidence including U.S. Census Bureau import data, USDA and University of Iowa data, hog statistics from *Statistics Canada*, and a report by the Chicago Mercantile Exchange. We have assessed the allegations and supporting evidence regarding material injury and causation and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Initiation Checklist*).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

The Department has examined the countervailing duty petition on live swine from Canada and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of live swine from Canada receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* also *Initiation Checklist.*

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Canada:

A. Canadian Farm Income Program
B. Producer Assistance 2003/Transitional Funding Program
C. Canadian Agricultural Income Stabilization Program
D. Farm Credit Canada Financing
  1. Flexi-Hog Loan Program
  2. Enviro-Loan Program
E. Quebec Farm Income Stabilization Insurance/Agricultural Revenue Stabilization Insurance Program
F. La Financiere Agricole du Quebec Loans
  1. Preferred Rate Loans
  2. Secure Rate Development Loans
  3. Advantage Rate Loans
G. Farm Improvement and Marketing Cooperatives Guaranteed Loans
H. Alberta Agricultural Financial Services Corporation ("AFSC") Financing: Developing Farmer Loan Program
I. Alberta Disaster Assistance Loan Program
J. Alberta Hog Industry Development Fund Program
K. Alberta Livestock Industry Development Fund Program
L. Manitoba Agricultural Credit Corporation ("MACC") Financing: Diversification Loan and Enhanced Diversification Loan Guarantee Programs
M. Saskatchewan Short-Term Hog Loan Program
N. Saskatchewan Livestock and Horticultural Facilities Incentives Program
O. New Brunswick Livestock Incentive Program
P. Prince Edward Island ("PEI") Hog Loan

Programs
1. Bridge Financing Program
2. Expansion Loan Program
3. Depop-Repop Loan Program
Q. PEI Swine Quality Improvement Program

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Canada:

A. Alberta Agricultural Financial Services Corporation Financing: Farm Development Loan Program

According to the petition, the Farm Development Loan program is a Government of Alberta program that offers short, medium, and long-term loans to farmers in amounts up to C$250,000 at a "reasonable cost."

The information relied upon by the petitioners in making this allegation related only to the Developing Farmer Loan Program (included above) and not to this program. We find that the petitioners did not provide sufficient evidence, as required by section 702(b) of the Act, that (1) this program was designed for the benefit of live swine producers, (2) swine producers were predominant users of the program, or (3) swine producers received disproportionate benefits under this program. Therefore, because the evidence provided is not sufficient to support the allegations of the elements necessary for the imposition of a countervailing duty imposed by section 701(a) of the Act, we are not investigating this program.

B. Manitoba Agricultural Credit Corporation Financing

1. Direct Lending Program

The MACC Direct Lending Program is intended for the purchase of land or buildings, construction or renovation of farm buildings, breeding stock, debt consolidation, supply-managed quota, and share financing. Manitoba farmers whose annual off-farm income does not exceed C$70,000 and whose net worth is C$650,000 or less are eligible to obtain these loans. The maximum amount of the loans are C$400,000 for individuals and joint farm units and C$800,000 for partnerships, corporations, or cooperatives.

As we noted in the *Initiation Checklist,* the petitioners withdrew their allegation in regard to this program. *See* Memorandum from Team to File dated March 29, 2004, "Ex-Parte Meeting with Counsel for Petitioners: Antidumping and Countervailing Duty Petitions on Live Swine from Canada." Moreover, the petitioners did not provide sufficient evidence to support the allegation. Therefore, we are not initiating an investigation of this program.

2. Bovine Spongiform Encephalopathy ("BSE") Recovery Program

The BSE Recovery Program provides financing to Manitoba cattle and other ruminant producers to address feed purchase requirements and accounts payable which may otherwise jeopardize the continuity of the operation due to the impact of the detection of BSE in Canada. Qualified applicants must be ruminant producers and must demonstrate an agricultural-related financial setback as a consequence of BSE. Loans under this program are capped at C$50,000 or C$75,000 depending on whether a shorter or a longer-term loan is needed.

According to the program description, loans issued under this program are limited to ruminant producers only (*e.g.,* cattle or sheep producers). Because swine producers are not ruminant producers, this program would not benefit subject merchandise production. Although the petitioners contend that, because Manitoba's hog producers have been adversely impacted by BSE, this program may have been extended to swine producers, the petitioners do not provide sufficient evidence, beyond mere speculation, to support this allegation. Therefore, because the petitioners have not met the requirements of section 702(b) of the Act, we are not initiating an investigation of this program.

C. Saskatchewan Farm Fuel Program

Under this program, farmers in Saskatchewan are eligible to purchase farm gasoline and propane, as well as marked diesel fuel, tax free from bulk dealers. To qualify for the fuel tax exemption, an individual must have a Fuel Tax Exemption Permit number issued by the Farm Fuel Program and must present that number when making a purchase. Farmers can also obtain the fuel tax rebate on farm gasoline and propane purchased from a retail outlet by applying for the rebate at the end of each year and submitting their fuel purchase receipts.

The petitioners claim that this program is *de facto* specific according to sections 771(5A)(D)(iii)(II) and (III) of the Act because live swine producers are the predominant users of this program and receive a disproportionate share of the program's benefits. According to record information and the description of the program itself, it appears that benefits through this program are available to all farmers in Saskatchewan. The petitioners have not adequately supported their claims that swine producers received a disproportionate share of the farm fuel tax exemptions or that swine producers are the predominant users of the program. Because the petitioners have not sufficiently supported their claims regarding the specificity of this program, we are not including this program in our investigation.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of live swine from Canada are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 7, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–8479 Filed 4–13–04; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

CALENDAR OF THE PUBLIC CONFERENCE AND LISTS OF PETITIONING PORK ASSOCIATIONS AND PRODUCERS

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigations:

LIVE SWINE FROM CANADA

Investigations Nos. 701-TA-438 and 731-TA-1076 (Preliminary)

March 26, 2003 - 9:30 am

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Countervailing and Antidumping Duties:

Collier Shannon Scott
Washington, DC
on behalf of

The National Pork Producers Council, 20 state pork associations, and 101 individual producers

Robert W. Ivey, General Manager, Maxwell Foods, Inc.
Jon Caspers, Owner of Swine Operations
Dr. Paul Ambrecht, Veterinarian, Lake City Veterinary Services
Dermot J. Hayes, Associate Professor, Iowa State University
Steve R. Meyer, President, Paragon Economics
Nick Giordano, International Trade Counsel to the National Pork Producers Council
Brad Hudgens, Georgetown Economic Services

Paul C. Rosenthal–OF COUNSEL
Mary T. Staley

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Cameron & Hornbostel
Washington, DC
on behalf of

The Canadian Pork Council and its Members

Edouard Asnong, President, Canadian Pork Council
Kevin Grier, Senior Market Analyst, George Morris Centre
Don Hrapchak, General Manager SPI Marketing Group
Florian Possberg, Chief Executive Officer, Big Sky Farms Inc.
Martin Rice, Executive Director, Canadian Pork Council

William K. Ince–OF COUNSEL

Willkie Farr & Gallagher
Washington, DC
on behalf of

HyTek, IC Pork, Maple Leaf Foods, Inc., Phoenix AgriTec, Inc., Premium Pork Canada, Inc., Premium Pork Finishing, Premium Pork Finishing II, and Premium Pork Manitoba

Larry Friesen, Director, Manitoba Pork Council Weanling Export District
Greg Howard, Vice President and Chief Operating Officer, Premium Pork Canada, Inc.
Andrew Holtmann, Director, Phoenix AgriTec Inc.
Jason Gould, Director of Business Analysis, Maple Leaf Food, Inc.
Gary Stott, Senior Director of Business Development and Vertical Coordination, Maple Leaf Foods, Inc.
Lance Mistelbacher, Director of Commodity Risk Management, Maple Leaf Foods, Inc.

Daniel L. Porter–OF COUNSEL
Matthew P. McCullough

Serko & Simon
New York, NY
on behalf of

Baxter Transport, Ltd., J. Quintaine & Son Ltd., and Zantingh Swine Inc.

Joel K. Simon–OF COUNSEL

List of Petitioning Associations

National Pork Producers Council
Arizona Pork Council
Georgia Pork Producers Association
Idaho Pork Producers Association
Illinois Pork Producers Association
Indiana Pork Producers Council
Iowa Pork Producers Association
Kentucky Pork Producers Association
Michigan Pork Producers Association
Minnesota Pork Producers Association
Missouri Pork Association
Montana Pork Producers Council
Nebraska Pork Producers Association
New York Pork Producers Inc.
North Carolina Pork Council
Ohio Pork Producers Council
Pennsylvania Pork Producers Council
South Dakota Pork Producers Council
Tennessee Pork Producers Association
Texas Pork Producers Association
Wisconsin Pork Association

List of Petitioning Producers

Alan Christensen
Alicia Prill-Adams
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.
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.
Daniel J. Pung

De Young Hog Farm LLC
Dean Schrag
Dean Vantiger
Double "M" Inc.
Dykhuis Farms, Inc.
E & L Harrison Enterprises, Inc.
Erie Lockhart
F & D Farms
Fisher Hog Farm
Fitzke Farm
Gary and Warren Oberdiek Partnership
GLM Farms
Greenway Farms
H & H Feed and Grain
H & K Enterprise, LTD
Ham Hill Farms, Inc.
Harrison Creek Farm
Harty Hog Farms
Heartland Pork, LLC
Heritage Swine
High Lean Pork, Inc.
Holden Farms Inc.
Huron Pork, LLC
Hurst AgriQuest
J.D. Howerton & Sons, Inc.
Jack Rodibaugh and Sons, Inc.
JC Howard Farms
Jim Kempen
Jorgensen Pork
Keith Berry Farms
Kendale Farm
Kessler Farms
Lange Farms LLC
Larson Bros. Dairy Inc.
Levelvue Pork Shop
Long Ranch Inc.
Lou Stoller & Sons, Inc.
Luckey Farm
Marvin Larrick
Maxwell Foods, Inc.
Mckenzie-Reed Farms
Meier Family Farms Inc.
MFA Inc.
Michael Farm
Mike Bayes
Murphy Brown LLC
Ned Black & Sons
Noecker Farms

Oakland Colony
Orangeburg Foods
Pigs Unlimited
Pitstick Pork Farms Inc.
Premium Standard Farms, Inc.
Prestage Farms, Inc.
R Hogs LLC
Rehmeier Farms
Rodger Schomberg Farm
Shroeder Farms
Scott Tapper Farm
Sheets Farm
Smith-Healy Farms, Inc.
Square Butte Farm
Steven A. Gay
Sunnycrest Inc.
TruLine Genetics
Two Mile Pork
Van dell Farms, Inc.
Valley View Farm
Vollmer Farms
Walter Farms LLP
Wen Mar Farms, Inc.
William Walter
Willow Ridge Farms LLC
Wispig
Wolf Farms
Wooden Purebred Swine Farms
Woodlawn Farms
Zimmerman Hog Farms

APPENDIX C

SUMMARY DATA

Table C-1
Live swine: Summary data concerning the U.S. market, 2001-03

(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		
	2001	2002	2003	2001-03	2001-02	2002-03
U.S. consumption quantity:						
Amount (1,000 head)	98,082	100,378	101,043	3.0	2.3	0.7
Producers' share (1)	94.6	94.3	92.6	-1.9	-0.3	-1.6
Importers' share (1):						
Canada	5.4	5.7	7.4	1.9	0.3	1.6
Other sources	0.0	0.0	0.0	0.0	0.0	-0.0
Total imports	5.4	5.7	7.4	1.9	0.3	1.6
Amount (1,000 pounds)	25,863,939	26,561,446	26,875,745	3.9	2.7	1.2
Producers' share (1)	97.2	97.3	96.8	-0.5	0.1	-0.6
Importers' share (1):						
Canada	2.8	2.7	3.2	0.5	-0.1	0.6
Other sources	0.0	0.0	0.0	0.0	0.0	-0.0
Total imports	2.8	2.7	3.2	0.5	-0.1	0.6
U.S. consumption value:						
Amount	11,359,039	8,872,648	10,129,207	-10.8	-21.9	14.2
Producers' share (1)	96.9	96.5	96.1	-0.8	-0.4	-0.5
Importers' share (1):						
Canada	3.1	3.5	3.9	0.8	0.4	0.5
Other sources	0.0	0.0	0.0	0.0	0.0	-0.0
Total imports	3.1	3.5	3.9	0.8	0.4	0.5
U.S. imports from:						
Canada:						
Quantity (1,000 head)	5,315	5,726	7,429	39.8	7.7	29.8
Quantity (1,000 pounds)	711,858	708,507	873,331	22.7	-0.5	23.3
Value	352,922	307,501	398,491	12.9	-12.9	29.6
Unit value (per head)	$66.40	$53.71	$53.64	-19.2	-19.1	-0.1
Unit value (per pound)	$0.50	$0.43	$0.46	-8.0	-12.5	5.1
Other sources:						
Quantity (1,000 head)	0	1	(2)	(3)	(3)	-68.3
Quantity (1,000 pounds)	0	147	5	(3)	(3)	-96.3
Value	0	204	54	(3)	(3)	-73.6
Unit value (per head)	(3)	$339.66	$282.67	(3)	(3)	-16.8
Unit value (per pound)	(3)	$1.39	$9.99	(3)	(3)	616.4
All sources:						
Quantity (1,000 head)	5,315	5,726	7,429	39.8	7.7	29.7
Quantity (1,000 pounds)	711,858	708,654	873,337	22.7	-0.5	23.2
Value	352,922	307,706	398,545	12.9	-12.8	29.5
Unit value (per head)	$66.40	$53.74	$53.65	-19.2	-19.1	-0.2
Unit value (per pound)	$0.50	$0.43	$0.46	-8.0	-12.4	5.1
U.S. producers':						
Breeding stock (1,000 head)	6,209	6,058	5,965	-3.9	-2.4	-1.5
Production (1,000 head)	100,503	101,678	101,254	0.7	1.2	-0.4
U.S. commercial shipments:						
Quantity (1,000 head)	92,767	94,651	93,613	0.9	2.0	-1.1
Quantity (1,000 pounds)	25,152,081	25,852,792	26,002,408	3.4	2.8	0.6
Value	11,006,117	8,564,943	9,730,663	-11.6	-22.2	13.6
Unit value (per head)	$118.64	$90.49	$103.95	-12.4	-23.7	14.9
Unit value (per pound)	$0.44	$0.33	$0.37	-14.5	-24.3	13.0
Export shipments:						
Quantity (1,000 head)	47	88	123	160.0	87.3	38.8
Quantity (1,000 pounds)	12,465	23,427	32,689	162.2	87.9	39.5
Value	5,767	12,342	22,777	294.9	114.0	84.5
Unit value (per head)	$122.15	$139.57	$185.53	51.9	14.3	32.9
Unit value (per pound)	$0.46	$0.53	$0.70	50.6	13.9	32.3
Ending inventory (1,000 head)	59,804	59,554	60,389	1.0	-0.4	1.4
Inventories/total shipments (1)	64.4	62.9	64.4	-0.0	-1.6	1.6
Net sales:						
Quantity (1,000 head)	33,951	36,607	38,083	12.2	7.8	4.0
Value	3,610,078	3,211,612	3,469,428	-3.9	-11.0	8.0
Unit value (per head)	$106.33	$87.73	$91.10	-14.3	-17.5	3.8
Total operating expenses	3,083,753	3,356,268	3,624,319	17.5	8.8	8.0
Net income or (loss)	526,325	(144,656)	(154,891)	(4)	(4)	-7.1
Capital expenditures	75,704	261,016	118,869	57.0	244.8	-54.5
Unit operating expenses	$90.83	$91.68	$95.17	4.8	0.9	3.8
Unit net income or (loss)	$15.50	($3.95)	($4.07)	(4)	(4)	-2.9
Operating expenses/sales (1)	85.4	104.5	104.5	19.0	19.1	-0.0
Net income or (loss)/sales	14.6	(4.5)	(4.5)	-19.0	-19.1	0.0

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Fewer than 500 animals.
(3) Not applicable.
(4) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year b
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

U.S. IMPORTS BY WEIGHT

Table D-1
Live swine: U.S. imports from Canada, by HTS item, 2001-03

HTS	Description	2001	2002	2003
		Quantity (number)		
0103.91.0000	Weighing less than 50 kg each	3,163,362	3,758,482	4,971,044
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	1,969,995	1,808,075	2,215,663
0103.92.0090	Weighing 50 kg or more each, other	181,553	159,089	242,510
	Total	5,314,910	5,725,646	7,429,217
		Quantity (1,000 pounds)		
0103.91.0000	Weighing less than 50 kg each	93,201	116,590	154,706
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	580,045	558,584	653,103
0103.92.0090	Weighing 50 kg or more each, other	38,612	33,333	65,523
	Total	711,858	708,507	873,331
		LDP value ($1,000)		
0103.91.0000	Weighing less than 50 kg each	103,168	108,501	149,544
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	219,884	171,532	209,494
0103.92.0090	Weighing 50 kg or more each, other	29,870	27,468	39,453
	Total	352,922	307,501	398,491
		LDP unit value ($/per pound)		
0103.91.0000	Weighing less than 50 kg each	1.11	0.93	0.97
0103.92.0010	Weighing 50 kg or more each, for immediate slaughter	0.38	0.31	0.32
0103.92.0090	Weighing 50 kg or more each, other	0.77	0.82	0.60
	Average	0.50	0.43	0.46

Note.--Data reported for HTS item 0103.91.0000 includes imports reported under HTS items 0103.91.0010, 0103.91.0020, and 0103.91.0030 during July-December 2003.

Source: Compiled from official Commerce statistics.

Table D-2
Live swine (weighing less than 50 kg each): U.S. imports from Canada, by HTS item, 2003

HTS	Description	Jan.-June 2003	July-Dec. 2003	Total 2003
		Quantity (number)		
0103.91.0000	Weighing less than 50 kg each	2,301,551	0	2,301,551
0103.91.0010	Weighing less than 7 kg each	0	1,446,950	1,446,950
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	0	348,588	348,588
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	0	873,955	873,955
	Total	2,301,551	2,669,493	4,971,044
		Quantity (1,000 pounds)		
0103.91.0000	Weighing less than 50 kg each	71,226	0	71,226
0103.91.0010	Weighing less than 7 kg each	0	17,765	17,765
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	0	13,164	13,164
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	0	52,551	52,551
	Total	71,226	83,480	154,706
		LDP value ($1,000)		
0103.91.0000	Weighing less than 50 kg each	74,522	0	74,522
0103.91.0010	Weighing less than 7 kg each	0	33,464	33,464
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	0	10,478	10,478
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	0	31,080	31,080
	Total	74,522	75,022	149,544
		LDP unit value ($/per pound)		
0103.91.0000	Weighing less than 50 kg each	1.05	--	1.05
0103.91.0010	Weighing less than 7 kg each	--	1.88	1.88
0103.91.0020	Weighing 7 kg or more but less than 23 kg each	--	0.80	0.80
0103.91.0030	Weighing 23 kg or more but less than 50 kg each	--	0.59	0.59
	Average	1.05	0.90	0.97

Source: Compiled from official Commerce statistics.

APPENDIX E

ADDITIONAL PRICE DATA

Table E-1
Live swine: Slaughter, weanling, and feeder prices for pigs sold in Canada and quantities of feeder pigs, by month, January 2001 to December 2003

Period	Canada Slaughter pigs[1]				Canadian feeder pigs[2]			
	Ontario	Manitoba	Ontario	Manitoba	Isoweaned pigs		50 lbs feeder pigs	
	Price (per hundred weight)		*Adjusted price[1] (per hundred weight)*		*US$ per pig*	*Quantity*	*US$ per pig*	*Quantity*
2001:								
January	$41.65	$42.55	$44.98	$45.96	***	***	***	***
February	45.03	44.14	48.63	47.67	***	***	***	***
March	52.70	51.24	56.91	55.34	***	***	***	***
April	54.19	53.31	58.52	57.58	***	***	***	***
May	57.40	57.40	61.99	61.99	***	***	***	***
June	61.02	59.23	65.90	63.96	***	***	***	***
July	60.48	58.99	65.32	63.71	***	***	***	***
August	59.20	57.73	63.94	62.35	***	***	***	***
September	50.64	52.36	54.69	56.55	***	***	***	***
October	46.19	47.35	49.89	51.14	***	***	***	***
November	41.88	42.17	45.24	45.54	***	***	***	***
December	39.12	39.70	42.25	42.87	***	***	***	***
2002:								
January	42.52	43.38	45.93	46.84	***	***	***	***
February	47.46	46.33	51.26	50.03	***	***	***	***
March	44.59	44.01	48.15	47.53	***	***	***	***
April	38.44	39.60	41.52	42.76	***	***	***	***
May	39.21	40.39	42.35	43.62	***	***	***	***
June	41.75	42.64	45.09	46.05	***	***	***	***
July	46.36	45.77	50.07	49.43	***	***	***	***
August	43.11	43.68	46.55	47.17	***	***	***	***
September	31.37	33.10	33.88	35.74	***	***	***	***
October	35.35	37.66	38.18	40.67	***	***	***	***
November	33.75	35.79	36.45	38.65	***	***	***	***
December	36.35	37.22	39.25	40.20	***	***	***	***
2003:								
January	36.20	39.15	39.10	42.28	***	***	***	***
February	41.70	42.30	45.04	45.69	***	***	***	***
March	41.80	42.72	45.14	46.13	***	***	***	***
April	42.00	42.62	45.36	46.03	***	***	***	***
May	47.09	50.11	50.86	54.12	***	***	***	***
June	54.35	54.35	58.70	58.70	***	***	***	***
July	50.88	52.19	54.95	56.36	***	***	***	***
August	46.46	50.37	50.18	54.39	***	***	***	***
September	44.26	48.25	47.80	52.11	***	***	***	***
October	42.54	47.35	45.94	51.14	***	***	***	***
November	37.65	43.53	40.67	47.01	***	***	***	***
December	38.69	43.53	41.79	47.01	***	***	***	***

[1] Data are for Ontario and Manitoba Index 100 hogs. These data represent Canadian hogs which are priced on an index system in which the index value of 100 corresponds, approximately, to a U.S. lean value of 49 to 50 percent (SPI Marketing Group, *Making Sense of the Differences Between Canadian and U.S. Prices*, found at *http://www.spimg.ca/us-prices.htm*, retrieved April 27, 2004).

[2] Data are for the following products: (1) Canadian weanling pigs and (2) Canadian 50 pound feeder pigs. The prices for the Canadian weanling pigs represent the weighted-average price of isowean feeder pig sales by two Canadian companies to U.S. producers. These sales were based on formula-based contracts. The data for Canadian feeder pigs represent the weighted-average price for 50 pound feeder pig sales by one Canadian company to U.S. producers.

Sources: USDA: U.S. Carlot Meat Trade Summary, 2001, 2002, and 2003; Statistics Canada: Hog Statistics; and Canadian Live Swine Exporter Coalition's postconference brief, exh. 22.

APPENDIX F

EFFECTS OF IMPORTS ON U.S. PROCESSORS' AND FARMERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. farmers to describe any actual or anticipated negative effects of imports of subject live swine from Canada on their return on investment or their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or their scale of capital investments undertaken as a result of such imports. The responses are as follows:

Actual Negative Effects

*** "Yes. Cancellation or rejection of expansion projects. I postponed and/or canceled three necessary efficiency improvement projects due to lack of cash flow. Reduction in the size of capital investments. Only absolutely necessary capital improvements get done. No Cash – No Do. I have even severely curtailed the introduction of replacement females."

*** "Yes, we have been damaged. Rejection of bank loans. Lowering of credit rating. We have lost money because of increased supply of pigs sent from Canada, reflecting a poorer market price. Our interest rates have been higher, and capital has been harder to get because of decreased resources."

*** "Yes. My credit rating is dropping because of declining asset to liability ratios."

*** "Yes. Cancellation or rejection of expansion projects. Reduction in the size of capital investments."

*** "Yes. As stated in I-3, we believe subsidized Canadian swine being sold into the U.S. are damaging overall markets and therefore our overall results of operations and cash flows, which directly lowers our return on the substantial investments we have made in live operations. Poor market conditions have also caused us to scale back or eliminate expansion projects while decreased overall results indirectly hinder our overall credit status and ability to raise and/or cost of raising funds."

*** "Yes. We had negative ROI for 2002 and 2003 and feel that the pig originating from Canada was the primary reason. Fortunately ***. Without *** I am not sure what would happen with credit availability and cost."

*** "Yes. Income was reduced in our operation due to depressed hog prices. We cancelled expansion plans and there was a reduction in the size of any capital investments. We also experienced a lowering of our credit rating."

*** "Yes. We have been damaged. Bank loans rejected. Credit rating lowered. We lost money because of increased supply of pigs sent from Canada, reflecting a poorer market price. Our interest rates have been higher, and capital has been harder to get because of decreased resources."

*** "No."

*** "Yes. The import of live swine from Canada to the U.S. has increased the supply of pork to the market place. This increase has had a detrimental affect on the prices that we have

received for our product. As a result, our return on investment has been lowered."

*** "Yes. We have experienced lower return on investment in the fact that with all the pork meat available in the U.S. and the steady flow of Canadian swine into the U.S. has given the packers plenty of choices to chose from hence the problem when the supplies are robust the packers don't need to pay up for swine. One of the bigger issues has been the lending community has gotten to the point they are really nervous about all the pork and numbers available and have tightened their lending practices to the point it is tough to get the working capital you need to operate unless you are debt free. As far as growth most of the industry will sit tight because of the future outlook on swine because of the numbers coming into the U.S."

*** "Yes, our operation was significantly negatively impacted by the hog prices in the years 2002 and 2003 as shown on ***. A major impact to our business has been the inability to ***. The extra pigs that continued to show up put us at a significant disadvantage in that process. The sow numbers appeared to be going down, but more and more pigs kept showing up at the processors. This whole situation has had a greater negative impact on the sow owner, as we have had to compete with the cheaper weaners/feeders coming across the border. We cannot produce those pigs for the same price when they are being subsidized. Due to the financial losses incurred, *** that negatively impacted our financial flexibility."

*** "Yes. Our financial condition is still quite strong. We have a very low debt and have maintained that. We have not invested in updating our facilities like we would do if we had been profitable over the last few years. ***."

*** "Yes. Reduction in size of capital investments."

*** "Yes, our firm has experienced the negative market effects of increased Canadian hog imports since January 2001. During this period of time, the U.S. sow base has continued to decline, but increased hog imports from Canada have increased the number of hogs slaughtered in the U.S. During 2002, Canadian hog imports contributed to an increased domestic supply of hogs, which had the effect of reducing hog prices in the U.S. to a level below the cost of production. Depressed market prices were the main factor in causing ***. During this period of time, we were forced to ***. Our financial results over this period of time caused ***. As a result, we have deferred some capital investments. ***."

*** "No."

*** "Yes. We had ***. We did not expand *** as planned. As a result, our son would not be able to make a living as a full-time farmer in this operation. *** was in a financial crisis as a result of the lower hog prices. ***. The towns in this area are declining, and businesses are closing as a result of a loss of revenue from farming. Hog farmers have gone out of business, and have moved away."

*** "Yes. We have experienced some negative returns because of the low hog prices that have resulted in a lowering of our credit rating."

*** "Yes. My firm has experienced actual negative effects as follows: (1) Cancellation or rejection of expansion projects. Specifically we canceled a proposed ***. Additionally we cut our breeding herd by *** in 2002. (2) Rejection of bank loans. ***."

*** "No. *** does not anticipate any material negative effects from live swine imports from Canada. Although we have, on occasion, lost sales to Canadian suppliers, the number of such lost sales is very small and did not adversely affect *** economic or financial position."

*** "Yes. Lack of working capital has limited our ability to invest in improved breeding stock and opportunities to lock in prices through futures contracts. By having to draw most all of our breeding stock from our own herd, little genetic process has been made."

*** "Yes. We believe that the continued increase in hogs imported from Canada since 2001 (while U.S. supply has basically remained static) has pressured the price paid for hogs which subsequently lowered ROI, cash flow and expected growth of our live production operations."

*** "No."

*** "Yes. I have not experienced any of the negative effects directly, but I have had to cancel all growth plans that were in consideration due to the lack of profitability and the bleak future forecast for profitability. According to the USDA quarterly pig reports, even with the decline of U.S. sow numbers, total pigs and slaughter numbers continue to grow to record levels. It would appear as if the expansion in hog numbers is coming from Canada which is continuing to expand their herds."

*** "The answer to this question is, of course, purely subjective. Logically, one can conclude that imports from Canada would negatively impact United States producers in that it increases supply; thereby reducing the demand for domestic products."

*** "No. Due to the low hog market prices, we have not felt comfortable in any form of expansion."

*** "Yes. Lowering in credit rating. Reduction in size of capital investments. We were not rejected on other projects because we knew we could not try."

*** "Yes. I will address the question of negative effects on the investment. I believe that this has negatively affected my return on investment. As you can see by my financial statement, we have not invested except in *** in any new capital expenditures. We are depreciating assets faster than we are replacing them. We are fortunate enough to have cash reserves for operating expenses. ***, which is why we showed some profit in 2001 and 2003. If you look at total assets, we have a very poor return on investment.

The hog business for many years has had cyclical returns. When hog numbers increase in this country, we make decisions to cut back on our sow herd. This is accomplished by producers either going out of business or cutting individual sows from the herd. I am involved in the ***. We have lost over *** of our hog producers in *** in the last five

years because of profitability. The numbers of slaughter hogs has not decreased in our country. Canadian sow herds have increased dramatically in the last few years. I find it difficult to believe that their cost of producing an Isowean pig is that much less than our cost. Therefore, I believe there must be some subsidies offered to them from the Canadian government. Canadian Isowean pigs are increasing dramatically while the market is telling us that we should decrease our numbers to become more profitable. According to the last USDA *Hogs and Pigs Report*, our sow numbers are down almost 2%, but it is estimated that we will have higher slaughter numbers in 2004 than in 2003, which I believe has to come from Canada in both slaughter and Isowean pigs imported into our country. I believe in free markets, but we must be able to compete on a fair and level playing field, which I don't think is the case now."

*** "No."

*** "No."

*** "Yes. Reduction in the size of capital investments. We have swine facilities in need of replacement but have failed to do so because of low returns due to low prices caused by Canadian pigs depressing prices for U.S. producers."

*** "Yes. No profit to expand on."

*** "Yes. Negative effects – inability to replace equipment due to poor cash flow. Increased debt – refinanced short term operating loan to long term mortgage to maintain cash flow."

*** "Yes, my firm has experienced negative effects as we: Cancelled or rejection of expansion projects. ***. We were told by various sources that the market was being set by an unlimited supply of cheaper Canadian weaned pigs."

*** "Yes, cancellation or rejection of expansion projects, reduction in size of capital investments."

*** "Yes, my firm has experienced a reduction in size of capital investments as a result of live imports from Canada."

*** "Yes. Cancellation or rejection of expansion projects, reduction in size of capital investments, lowering of credit rating. Our farm showed a net loss in 2002 and 2003, and we had to borrow $***."

*** "Yes, the surge in low-priced imports of live hogs from Canada has had an adverse effect on U.S. prices. The oversupply of live hogs caused by the Canadian imports has driven down U.S. prices. In our fiscal year 2003, our live hog price for the year averaged $*** per CWT as compared to $*** in the prior year. While there are several factors that impact the level of U.S. prices, the imports from Canada are a demonstrable negative influence on U.S. prices. As a result of the steep drop in prices in FY 2003, our hog business experienced production expenses greater than revenues by $***. This situation led to (1) a drastic reduction in capital investment in the business; (2) a ***; and (3) a

corresponding increase in borrowing costs relating to both the size of the borrowing as well as the applicable interest rate."

*** "Yes. Reduction in the size of capital investments. Lowering of credit rating. We are unable to give pay increases to employees, or to distribute all of the earned income to the partners."

*** "In my case, I feel the answer is yes. Since my operation has obtained the size that we wish it to be, we haven't had the problems associated with capital investments, loans etc. My observation is that since the Canadian hog farms don't ever have to be concerned about losses due to low prices, they have been able to expand regardless of the market conditions. That has increased the production of pork coming from that country into the USA, which has lowered our price and dramatically affected our return on investment. There have been times that the packer I am selling to has enough hogs coming from Canada that they don't need to kill ours and consequently they pay down for them. It also has increased the tonnage of pork in the retail markets which must be priced lower in order to get it moved out to the consumer. This has caused a lowering of my price of hogs, which comes off the top of my profit and lowers my return on investment."

Anticipated Negative Effects

*** "Yes. See above."

*** "Yes. If this dumping continues, we expect a continued depression of prices received for our pigs."

*** "Yes. I have had to restructure my business because I lost markets for feeder pigs we intended to sell."

*** "Yes. Excessive supply."

*** "Yes. Our primary concern is the continued negative impact on market prices as subsidized Canadian swine are sold in the U.S. at below pure market prices, thus lowering our results of operations and cash flows. Note the net losses generated by our live operations in 2002 and 2003 as provided in response to III-6."

*** "Yes. Unless the number of animals imported from Canada decreases, we are sure that *** income, cash flow, ROI will remain negative or sub par. This will ultimately increase interest expense and limit *** ability to borrow additional funds. If it continues long term, *** viability as a company will be in jeopardy."

*** "Yes. It's hard to anticipate what will impact our market. U.S. farmers have tried to reduce hog numbers in an effort to bring back profitability. An outside source of feeder pigs and market hogs from Canada negatively impacts that effort."

*** "Yes. If this dumping continues, we expect continued depression of prices for our pigs."

*** "No."

*** "Yes. If imports continue at a high level, the price we receive will be lower due to a higher supply."

*** No separate comments submitted. See response above.

*** "Yes. Until the North American swine herd stabilizes, we will be unable to grow our business. Because of the ever increasing imports, the US processors are not willing to discuss a fair pricing system for our product as they can get all they want, and maybe more than they actually need. We are not afraid to compete with the Canadian producers, but want to do it on a level playing field."

*** "Yes. My firm anticipates negative effects as follows: If there are too many pigs on the market that depresses prices. Normally when this happens production is reduced and the market returns to a profitable level. That has not happened lately. The Canadians keep sending more pigs into the U.S. keeping our markets at prices too low to be profitable."

*** "Yes. With the continued dumping of the enormous amount of Canadian market hogs to U.S. packing plants equaling record current hog slaughter numbers and with the great demand for pork products eventually going to weaken the outlook for profitability is unlikely. U.S. pork producers will tolerate another unprofitable year. Six in a row. I'm a third generation pork producer and proud of it but enough is enough there is a good chance this may be my last year producing pork. And sadly ***. What's wrong with this picture? U.S. hog producers cannot compete with Canadian pork producers who are subsidized by their own government to produce pork and given the opportunity by their government to receive low interest loans as well."

*** "Yes. Continued importation of live hogs from Canada will have the effect of increasing the supply of pork in the U.S. market. All things being equal, and as history shows, increased hog supplies have a negative impact on pork prices and the profitability of the domestic pork industry."

*** "Yes. The only way it impacts our firm is the impact it has on the live hog supply in the U.S. and the influence the supply has on the market."

*** "Yes. We do anticipate further negative impact similar to what has been outlined above under question III-7."

*** "Yes. The low prices caused by the live imports of Canadian hogs caused the price to fall below our cost of production."

*** "Yes--My firm anticipates negative effects as follows: Our business model relies on selling weaner/feeder pigs and market hogs. The continued influx of Canadian pigs has forced the market price of both pigs and market hogs below our cost of production. Continued dumping will force us out of business which will be quite negative to our employees, contract growers and grain farmers that rely on my company for their income."

*** "No. *** does not anticipate any material negative effects from live swine imports from Canada. Although we have, on occasion, lost sales to Canadian suppliers, the number of such lost sales is very small and did not adversely affect *** economic or financial position."

*** "Yes. Larger supplies from Canadian hogs entering the US market has led to lower prices for my product."

*** "Yes. Increased supply will continue to pressure live hog prices."

*** "Yes, while we do not support any actions by Canadian producers that would have negative effects on free trade, we are also concerned about potential restrictions that may impede free trade in the opposite direction. Any trade restrictions that would artificially increase the market price of hogs in the USA would benefit the major competitors that raise their own hogs and that would put companies like ours at a disadvantage."

*** "Yes. As of to date, we have made a significant change in our future plans of production. We have decided that unless profitability returns to hog production, we will be forced to exit from hog production when our facilities are exhausted. Since there is no return for depreciation, it would be impractical to try and build any new or expand any facilities. Unless the level of hogs imported from Canada is lowered or a countervailing duty is placed on imported Canadian hogs so as to level the playing field for cost of production, we will have no alternative but to liquidate the sow herd. This is a difficult decision to make. We have been in swine production since my father started farming. Today I have a son who has started back on the farm with us and these type of decisions could make a career change for what he loves and wants to do in the future."

*** "Again, this question speaks directly to supply and demand. Additionally, not only is domestic demand reduced, but increased supply negatively affects price. Price reductions obviously reduce our revenues."

*** "Yes. The increased exporting of hogs from Canada has had a major impact on the U.S. hog market. As they ship more hogs to the U.S., the supply of pork increases. As the law of supply and demand dictates, when supply surpasses demand for a product, then the price (or value) of the product is reduced. Since the Canadian dollar is currently weaker than the U.S. dollar, the return rate to the Canadian producers also benefits them. I understand that we now have a global economy, but when a government heavily subsidizes a product and then floods the market of another country, something needs to be done to correct the problem."

*** "Yes, if they are allowed to continue expanding without the U.S. price having an impact."

*** "Yes. See answer above."

*** "No."

*** "No."

*** "Yes."

*** "Yes. I have cut back in production due to lack of profitability hoping to increase hog prices (i.e., *** head in 2001 to *** head in 2003.) But due to increases in live import of hogs from Canada the price for hogs has remained low. Presently in 2004, I am unable to buy Feeder pigs that I will be able to show a profit when they are ready to sell. Therefore I have ***."

*** No separate comments submitted. See response above.

*** "Yes. We will continue to try and finish all of our production to market weight rather than compete against the ultra cheap Canadian weaned pigs and feeder pigs that along with *** pigs from the southern U.S. set the market in the Midwest."

*** "Yes, I anticipate Canadian hog imports will cause continued excess supply of market hogs and therefore price pressure on hog prices."

*** "Yes, my firm anticipates negative impacts if live swine from Canada continue to be imported into the U.S. The most serious is a discontinuance of my farming operation after I retire. My son who is working with me will not be able to continue the operation if this unfair competition continues. I am presently *** years old and it would be not good if we continue to lose young farmers in the U.S."

*** "Yes. We have endured 28 months of low market prices. Canadian live hog imports are overwhelming our capability to slaughter and merchandise this much pork at a profit."

*** "Yes, we anticipate continued problems in the marketplace relating to the overproduction of pigs and the corresponding glut of live animals. The increasing trend in low-priced imports of live hogs from Canada means that the U.S. hog market will continue to deteriorate."

*** "Yes. We anticipate continued economic stress."

*** "Yes, for the reasons stated in question III-7."