

PIGS AND PORK FROM CANADA

Reviews on Remand in
Investigation No.
01-TA-224 (Final)



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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In 1985, the U.S. International Trade Commission made a determination in investigation No. 701-TA-224 (Final) that an industry in the United States was materially injured by reason of subsidized imports of live swine from Canada (USITC Pub. No. 1733 (1985)). That determination was subsequently appealed to the U.S. Court of International Trade and remanded to the Commission for further consideration (Alberta Pork Producers' Marketing Board v. United States, Ct. No. 85-09-01257, Slip Op. 87-97, Aug. 8, 1987). The attached views were submitted to the Court in response to the remand.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 701-TA-224 (Final) (Remand)

LIVE SWINE AND PORK FROM CANADA

VIEWS OF THE COMMISSION ^{1/}

We determine that an industry in the United States is materially injured by reason of imports of live swine which are subsidized by the government of Canada. Our determination is based upon our consideration of the adjusted econometric estimates of swine price flexibilities and the published pricing data, as well as upon those other factors we discussed in our final opinion. ^{2/}

The Scope of Our Remand Determination

On August 8, 1987, the Court of International Trade (CIT) entered a judgment in Alberta Pork Producers' Marketing Board v. United States, slip. op. 87-87 (Ct. Int'l Trade Aug. 8., 1987) remanding the Commission's

^{1/} Commissioner Eckes and Commissioner Rohr voted affirmatively. Chairman Liebeler and Vice Chairman Brunsdale made negative determinations. See Additional and Dissenting Views of Chairman Liebeler at 17 and Dissenting Views of Vice Chairman Anne E. Brunsdale at 19. Commissioner Lodwick did not participate in this investigation. An evenly divided vote constitutes an affirmative determination. See 19 U.S.C. § 1677(11).

^{2/} Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final).

determination for a reevaluation of the evidence concerning the price elasticities relied on by the Commission in its final determination. The Court stated that "[s]ince the Commission found live swine and pork to be different products, . . . the use of elasticity estimates which may be derived from changes in supply of pork and live swine is inappropriate for determining whether the injury to the live swine industry is by reason of subsidized imports of live swine." ^{3/} The Court stated that if the price flexibilities used in the staff economist's summary report "are not derived from live swine only, the Commission must reconsider its determination with respect to the effect of increased Canadian imports on United States live swine prices." ^{4/}

Material injury by reason of subsidized imports from Canada

Because of the narrow scope of this remand investigation, our analysis is limited to an examination of the effect of imports on prices in the United States for the like product in accordance with the Court's remand instructions. ^{5/}

In the Commission's final determination, we determined that imports of Canadian swine were having a depressing effect on domestic prices, noting that

^{3/} Slip op. at 49.

^{4/} Slip. op. at 50. The Court added that the Commission may "either obtain new data for its price elasticity estimates or identify and explain what data in the present record supports the redetermination." On August 24, 1987, the Commission voted not to reopen the record to obtain new data for its remand determination. INV-87-135.

^{5/} See also Additional Views of Commissioner David B. Mohr at 2.

this relationship was demonstrated by the elasticity estimates provided by the parties. The price flexibilities for live swine submitted by the parties which were used in that determination, however, were not derived from data on live swine only. ^{6/} Accordingly, as ordered by the Court, we reconsidered our determination with respect to the effect of increased Canadian imports on United States live swine prices.

In determining whether to rely on the available econometric estimates of record in our remand determination, we must make some preliminary determinations. First, we determine that the econometric estimates in the record are the best information of this nature available to us. ^{7/}

Second, in our reconsideration of the price effects, we note that estimates of swine price flexibility coefficients are generally, by necessity, based upon data that include both swine and pork. ^{8/} We acknowledge that the use of data which aggregate swine and pork introduces an aggregation bias into the estimation procedure. ^{9/}

Moreover, the coefficients provided by the expert witnesses were within the range of coefficients for live swine that are reported in the professional

^{6/} See Office of Economics Memorandum, EC-K-355 (Sept. 10, 1987).

^{7/} See 19 U.S.C. § 1677e(b).

^{8/} See EC-K-355. We also note that proper estimation of price flexibilities must include all economic variables that significantly impact on the swine market including such variables as pork sales, beef sales, chicken sales, fish sales and consumer incomes, despite the fact that these variables are outside of the swine industry per se. Id.

^{9/} Id.

literature. ^{10/} However, all of these estimates are based upon data that relate swine prices to a quantity variable that includes swine and pork. Therefore, they incorporate a bias. ^{11/} In this investigation, however, we find that the bias introduced is very small because imported pork accounts for a very small share of the domestic market. ^{12/}

Finally, we were able to quantify this bias and arrive at a range of unbiased price flexibilities that are applicable to live swine only. Specifically, the range of biased price flexibilities upon which the Commission based its final determination was 1.00 to 2.00 whereas the range of unbiased price flexibilities, which we now rely upon, is 0.97 to 1.98. ^{13/} These latter price flexibilities apply to swine only and relate swine prices to the sales of swine to domestic slaughter houses. ^{14/} We have examined the maximum aggregation biases that were found to exist in this investigation and find that the estimates of these biases are persuasively supported by the facts of record. ^{15/}

We feel compelled to express disagreement with the Court's conclusion that the Commission cannot rely on an aggregated data base when it determines

^{10/} Id. We note that this is an unusual case in the sense that the estimates provided by petitioners and respondent were close enough in range that the Commission was able to use estimates by both parties.

^{11/} Id.

^{12/} Id.

^{13/} Id.

^{14/} Id.

^{15/} Id. at 9.

that there are two like products. ^{16/} Nonetheless, the Commission, of course, will comply with the Court's remand order.

In this remand investigation, we have also recalculated the impact on swine prices and gross revenues of U.S. swine growers caused by changes in the Canadian share of the integrated U.S./Canadian live swine market. ^{17/} For these particular measurements, price flexibilities were adjusted for the bias resulting from the aggregation of live swine and pork data. ^{18/} Having made our preliminary findings, we examined the recalculations involving the maximum biases. The results of these recalculations show that the Canadian share fell in 1983 and caused swine prices to be approximately \$.18 to \$.38 per hundredweight higher than the prices would have been without the decrease in the Canadian share. Further, the Canadian share rose in 1984 and caused swine prices to be approximately \$.62 to \$1.26 per hundredweight lower than the

^{16/} We also must express our concern over a statement by the Court indicating that a notation on a memo pad made by the staff economist in the final investigation was insufficient evidence of record. Slip. op. at 48. It is common practice for the Commission to rely on the telephone notes of its professional staff as part of the evidence of record in its investigations. The Commission is under very stringent time constraints to complete its investigations and, in many instances, our statutory time constraints simply do not afford our professional staff the opportunity to prepare formal memorandum incorporating notes of the numerous telephone conversations they engage in. Nonetheless, the Commission, of necessity, must rely on the staffs' notes as part of the administrative record. Finally, it was clear to us that the memo notation "1.00-farm" referred to the price elasticity of demand for swine.

^{17/} Commissioner Rohr noted that he views these calculations as merely illustrative. See Additional Views of Commissioner David B. Rohr at 8.

^{18/} See EC-X-360 (Sept. 14, 1987).

prices would have been without the increase in the Canadian share. Based on U.S.D.A. forecasts, the Commission projected an increase in the Canadian market share of live swine for 1985 which would cause swine prices to be approximately \$.17 to \$.36 per hundredweight lower than the prices would have been without the increase in the Canadian share during 1985. Thus, the total increase in the Canadian share during 1984 and 1985 caused an estimated decline in swine prices from \$.79 to \$1.62.

We also examined the aggregate impact on gross revenues of all U.S. growers as a result of changes in the Canadian share of the live swine market. We estimated that gross revenues were higher by approximately \$34 million to \$73 million in 1983, and that gross revenues were lower by approximately \$114 million to \$232 million in 1984. For 1985, we projected lower gross revenues by approximately \$30 million to \$64 million. The estimates of the maximum biases are so small and the resulting changes in the figures caused by the recalculations are so small that these recalculated figures in conjunction with other factors we discussed in the final opinion, compels a determination that the domestic swine industry in the United States is materially injured by reason of subsidized imports.

We stress, however, that the pricing analysis is not based solely on the elasticity estimates as adjusted to take into account the Court's concerns. We also rely, as we did in our final opinion, on the published pricing data. We find that the published U.S. prices for barrows and gilts averaged \$55 per hundredweight in 1982, dropped to \$48 per hundredweight in 1983, and then rose slightly to \$49 per hundredweight in 1984. The published U.S. price declined

further averaging \$45 per hundredweight during the first quarter of 1985 compared with \$48 per hundredweight during the corresponding period of 1984.

The record indicates that the published pricing data are "representative and good indicators" of prices in the market. ^{19/} During this same overall period, there was a rapid increase in the Canadian share of the market. ^{20/} The rapid increase in the Canadian share of the market by subsidized imports has had a disruptive effect on the U.S. market that, combined with the depressing effect that this increased share had on swine prices as reflected in the published pricing data, lead us to conclude that the domestic industry has been materially injured by reason of the subject imports.

Finally, we find that both the econometric analysis and the analysis of the published pricing data support our affirmative determination. Nonetheless, even in the absence of the econometric data, we consider the published pricing data alone to be sufficient to support our affirmative determination, when taken together with the other factors discussed in our final opinion. We, therefore, determine that an industry in the United States is materially injured by reason of imports of live swine which are subsidized by the government of Canada.

^{19/} Transcript of the briefing and vote in the final investigation at 5.

^{20/} In our final investigation, we examined the volume of imports both in absolute terms and in terms of market penetration. Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 at 12. We concluded that there had been a rapid increase in the Canadian share of the market. USITC Pub. 1733 at 14. The Court found that "there is substantial evidence on the record to support the Commission's conclusion that the volume of Canadian imports of live swine is significant." Slip. op. at 42.

ADDITIONAL VIEWS OF COMMISSIONER DAVID B. ROHR***Live Swine and Pork From Canada*****Inv. No. 701-TA-224 (Remand)**

This investigation returned to the Commission for redetermination pursuant to the order of the Court of International Trade in *Alberta Pork Producers' Marketing Board v. United States*, Slip Op. 87-97 (Aug. 7, 1987). That case involved an appeal from the Commission's final determination in *Live Swine and Pork from Canada (Live Swine)*, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985). 1/ The order of the Court specifically relates to statements made in the Commission's majority views, concerning certain price elasticities, in support of its affirmative determination. 2/ Because of certain unusual aspects of this remand order, I believe it appropriate to offer these additional views.

1/ In that investigation, a three-member Commission (two Commissioners having recused themselves) made two split determinations. Commissioners Eckes and myself found that the domestic industry producing live swine was materially injured by reason of imports of live swine from Canada, and Vice Chairman Liebeler and myself found that the domestic industry producing pork products was not materially injured or threatened with material injury by reason of Canadian pork imports. The latter determination having been upheld by the Court of International Trade in *National Pork Producers Council v. United States*, Slip Op. 87-63 (May 28, 1987), this remand involves our determination relating to live swine.

2/ *Live Swine*, Views of the Commission at 13.

The Court's specific remand order, contained in its conclusion, is as follows:

"The Commission's determination is remanded for reevaluation of evidence concerning price elasticities relied on by the Commission in its final determination." 3/

The scope of this order is further detailed in the body of the Court's opinion:

Since the Commission found live swine and pork to be different products, the Court finds the use of elasticity estimates which may be derived from changes in the supply of pork and live swine to be inappropriate for determining whether injury to the live swine industry is by reason of the subsidized imports of live swine. The Court is not in a position to state either that the price flexibilities used were in fact for pork and live swine or whether the Commission knowing that they were, if they are, would reverse its determination....

Having found a potential error in the data specifically relied upon by the Commission in reaching its determination regarding the depressing price effect of increased Canadian imports, the Court remands this action for determination as to whether the price flexibilities...are for only live swine. If these price flexibilities are not derived from data on live swine only, the Commission must reconsider its determination with respect to the effect of increased Canadian imports on United States live swine prices. The Commission may either obtain new data for its price elasticity estimates or identify and explain what data in the present record supports its redetermination. 4/

The elasticities submitted by the parties and used in the Commission majority views were, in fact, derived from imports of both live swine and pork. 5/ The scope of this remand determination is a reconsideration of the Commission's original determination "with respect to the effect of increased Canadian imports on United States live swine prices." This remand thus relates to the Commission's consideration of Section 771(7)(B)(ii) of the Tariff Act of 1930 (the effect of

3/ Slip Op. at 56.

4/ Slip Op. at 49-50 (Emphasis added).

5/ In fact, this was known at the time I made my initial determination. What value I placed on such estimates was placed on the data with full consideration given to this fact.

imports of that merchandise on prices in the United States for like products), as that provision is further explained and amplified by Section 771(7)(C)(ii).

In reconsidering my original determination on this basis, I have analyzed all of the evidence compiled in our original investigation which relates to the prices of live swine in the United States and Canada. I have reconsidered the price elasticities referred to in our initial determination, and my conclusions as to these issues are set forth in the majority opinion to which these views are additional.

Because I believe the scope of this remand involves a full reconsideration of section 771(7)(B)(ii) factors, I feel it is also important to address certain concerns expressed by the Court which relate to the use of price comparisons, upon which I explicitly relied in my initial determination. ^{6/} In its opinion, the Court notes that "one Commissioner cited significant underselling by Canadian hog imports as a basis for an affirmative injury finding." ^{7/} It further notes "it is unclear what data formed the basis for the Commissioner's finding that Canadian hogs 'frequently undersold' domestic hogs in the United States." ^{8/} These were my findings. As one of the two Members of the Commission who comprised the Commission majority on the affirmative determination in the original investigation, as well as in the remand investigation, I believe it would be useful for the Court to have a more detailed explanation of my determination with respect to price comparisons.

Background

The Commission's original determination in this investigation involved three

^{6/} See *Live Swine, Views of the Commission*, at 14 n.49).

^{7/} Slip Op. at 50.

^{8/} Slip Op. at 51.

distinct elements, the like product and domestic industry (the scope of our investigation), the condition of the industry (whether the industry is experiencing material injury), and causation (whether that injury is by reason of the subject imports). This remand involves the third of these elements, causation. As specified in Section 771(7)(B), the Commission's causation analysis involves three elements, volume, price, and impact on the domestic industry (which involves the relationship of various factors). Very specifically, this remand concerns the second of these elements, price. 9/

In considering price, Congress has directed the Commission to consider, "the effect of imports of that merchandise on prices in the United States for like products." 10/ The statute itself supplies the outlines of this consideration by specifying that the Commission should analyze, "price undercutting by the imported merchandise as compared to the price of the like products of the United States" and whether the "effect of imports of such merchandise otherwise depressed prices...or prevents price increases." 11/

The essential question addressed by the Commission is what effect imports are having on prices in the United States. I have usually found the soundest method of analyzing this question is to look at the prices themselves and to consider how businessmen are likely to react to them as a practical matter, rather than to rely on abstract estimates such as elasticities. Nonetheless, I am also permitted by

9/ The Court specifically affirmed the Commission's conclusions as to volume effects. Slip Op. at 42.

10/ Section 771(7)(B)(ii).

11/ Section 771(7)(C)(ii).

the statute and constrained by the information available to me in our investigations to use a variety of reasonable means, as long as they are not inconsistent with the statute, to reach my decision.

In this particular case, an evaluation of elasticity appeared reasonable. So too, a direct comparison of prices appeared probative. Neither was as conclusive as I would have preferred. Data problems lessened my reliance on either. In the end, I was persuaded that an affirmative conclusion was warranted because the elasticity analysis was consistent with and confirmed the findings that resulted from the direct price comparisons. I therefore exercised my judgment as a Commissioner to conclude that imports were having an effect on prices in the domestic market. This finding, supported and reinforced by my findings with regard to volume, ultimately required the affirmative conclusion that imports were a cause of the injury being suffered by the domestic swine producing industry.

Price Elasticity

I concur with the explanation of price elasticities provided in the Commission's majority remand views. I wish only to add certain general comments. In my view, the discussion of elasticities in the Commission's original views was merely to support the point that prices were extremely responsive to changes in supply. This was a point on which the parties agreed. The difference between them was only in the degree of this responsiveness. Purely and solely for purposes of illustration, the Commission provided calculated certain changes in income and price using standard economic formulas based on the elasticities provided by the parties. I did not view these calculations as any kind of attempt to quantify the actual impact of Canadian swine on prices or incomes in the United States, and certainly not as a substitute for analysis required by the

statute. 12/

It is nonetheless clear that the elasticities confirm the essential point that price is responsive to the supply of live swine. I was aware that the calculation of the elasticities themselves did include imports of pork. For the essential point for which I was using these elasticities, this was of marginal relevance.

13/ Even so, it was also apparent to me that given the volumes of Canadian live swine and Canadian pork, relative to the U.S. market, any distortion introduced by the inclusion of imports of pork would be small. The mathematical computations provided to me by the Commission staff in the course of this remand merely confirm this judgment. Price in the United States for live swine is responsive to imports of Canadian live swine.

Price Comparisons

In my original views, I made four points. The Commission had obtained pricing data. There was frequent underselling. The underselling was significant. U.S. prices generally declined when Canadian imports rose. 14/ It was clearly a mistake for me not to have more fully elaborated these conclusions. I viewed them as obvious conclusions from the data that were merely cumulative of the conclusions provided in the majority views. I wished only to make the point that I did not

12/ The complexities of real markets, even for a relatively fungible product such as live swine, make me view quantifications based on simplified models with extreme caution. I specifically reject the notion that such quantifications are a reasonable basis for estimating the amount of injury resulting from imports.

13/ In fact, such inclusion improved the confidence I was willing to provide such an analysis because it meant that a factor that is important in reality was not ignored in the model.

14/ *Live Swine*, Views of the Commission at 14 n.49.

solely rely on the material elaborated in the majority views. In view of the comments directed at these price comparisons, a fuller explanation seems in order.

The issue I was considering was whether the price at which imported Canadian swine were sold had an effect on either or both the volume of Canadian imports or the price at which domestic live swine were sold. The first problem that I faced was a data problem. The Commission was able to obtain very limited data on direct price comparisons. 15/ The principal data obtained on price were published prices, in Canada from Ontario, and in the United States from a weighted average of seven city markets. I determined that, while imperfect, the data supported reasonable findings. 16/ While my findings would not be as strong as they would be with direct comparisons, they would have some probative value for my ultimate conclusions. I therefore considered the data.

First, looking at Tables 28, 29, and 30 and figure 4 on page 63 of the Commission's Report accompanying its determination (the "Report"), it is apparent that prices in Canada and the United States follow similar trends and that historically the prices are very similar to one another. This is particularly apparent in figure 4. 17/ The graph also illustrates one other interesting

15/ This is not an unusual situation when the Commission investigates agricultural products. The large number of producers and markets in such cases frequently complicate Commission analysis. I note, however, that the direct data are consistent with the published data.

16/ In so doing, I was exercising my discretion to use the best information available to me. I based the conclusion that the data would support reasonably probative findings on the information provided by the parties on how the markets for live swine work. The product is fungible, the markets operate as auctions, there is a substantial amount of communication between markets so that prices are made known from one to another, and sales are made in markets for delivery to meat packers on both Canadian and U.S. sides of the border.

17/ Commission Confidential Report at p. 63. In most cases, the margin of underselling is small, consistent with what I would expect with a fungible product.

phenomenon. At one point in the graph there is a significant divergence of prices over a relatively extensive period of time. That period of time is the first half of 1984, and, during that time, the published Canadian price was below the United States average price. Table 28 confirms occasional underselling but very similar prices between Canadian prices and U.S. prices until 1984. Then during the first seven months of 1984, I see a consistent pattern of underselling, at margins that are significant relative to historical trends. In view of the historical relationship between prices and the fungible nature of the product, I concluded that this anomaly, relatively larger amounts of underselling over a longer period of time than was historically common, could be significant.

I then looked at this anomaly in light of the monthly pattern of Canadian imports. Table D-2 on page A-103 of the Report shows the volume of Canadian imports, as the aggregated pork carcass equivalent of live swine from Canada combined with imports of Canadian pork. Disaggregated monthly import data on live swine from Canada was also available to the Commission. 18/ Even a cursory examination of this data shows that there was a massive jump in the volume of Canadian imports during the period in which Canadian published prices were below the domestic prices. Recognizing that there would also be problems with time lags

18/ Conditions of Competition Between the U.S. and Canadian Live Swine and Pork Industries, Inv. No. 332-186, USITC Pub. 1615 at 160, Table L-31 (November 1984). The monthly data in this report covers the period between 1979 and August 1984. There is some question, in light of the Commission's decision not to reopen the record, whether it is appropriate to also look at disaggregated data from sources available to but not explicitly presented to the Commission in disaggregated form at the time the Commission made its original decision, i.e., monthly import data on live swine from Canada for the latter half of 1984 and the first five months of 1985. The Commission possesses such disaggregated data from the publicly available official statistics of the Department of Commerce as a part of the Commission's normal functions of monitoring international trade trends. Because of the Court's concern that the Commission use disaggregated data, I note that, if examined, this data shows the same relationship between underselling and increases in imports noted above.

of both imports and prices, a closer examination of the data indicates that underselling in February and March and November of 1982 corresponded to jumps in imports. Similarly, three of the 1983 periods of underselling, January, August, and December correspond to jumps in imports.

Many factors other than margins of underselling also clearly influence the volume of live swine imported from Canada. Many changes in the relative volumes of imports from month to month are unrelated to underselling. Nevertheless, it is my judgment that the data supported the conclusion that price, and particularly price underselling, was one factor affecting the massive surge in Canadian live swine imports in 1984 and 1985.

The same conclusion can be seen by looking at published annual prices. I see a very small increase in domestic prices in 1984 relative to 1983 and a decline in domestic prices in 1985. I see large increases in imports from Canada in these two periods. Looking at prices and volumes in each of these manners, elasticities, underselling to import volumes, and import volumes to domestic prices, leads to the same conclusion. Canadian prices and Canadian volumes do affect domestic prices.

Conclusion

The issue presented by this remand is what effects did the price of Canadian imports have on the domestic industry. The evidence established that the price in the United States is generally responsive to the volume of live swine imported from Canada. In addition, as can be seen by looking at published price data, domestic prices did not increase significantly in 1984 and actually decreased in early 1985 despite contractions in domestic supply. Further, I believe that the data establish that the price of Canadian imports and their sale at prices undercutting domestic prices affected the volume of swine that was imported. Therefore, I concluded that Canadian imports were a cause of material injury to the domestic industry.

**ADDITIONAL AND DISSENTING VIEWS
OF CHAIRMAN LIEBELER**

I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of subsidized imports of swine from Canada.

The Court of International Trade remanded the Commission's determination for reevaluation of the evidence concerning the price flexibilities relied on by the Commission in its final determination. Although I dissented from the majority opinion in Live Swine and Pork from Canada, Inv. No. 701-TA-224, I did consider these price flexibilities.

Specifically the Court ordered the Commission to determine whether the price flexibilities used in the staff economist's summary report, R. Doc. 101, are only for live swine. If these price flexibilities are not derived from data on live swine only, we must reconsider our determination. In so doing we may either obtain new data for the estimates of price flexibilities or identify and explain what data in the present record supports the

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redetermination. .

The price flexibilities relied upon in my original opinion were based upon data that relate swine prices to a quantity variable that includes swine and pork. As a result, they have a slight bias. This bias, however, is very small and operates in petitioner's favor to overstate the amount of gross revenues lost. Commission's Office of Economics has estimated the bias to be between -0.01 and -0.06 and calculated a range of new price flexibilities

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applicable to live swine only. Using the new price flexibilities for swine only, the effect of subsidized Canadian imports

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Alberta Pork Producers' Marketing Board v. United States, No. 87-94, slip. op. at 50 (Ct. Int'l Trade, Aug. 7, 1987)

2

EC-K-355.

on United States live swine prices suggests that in 1985 domestic prices fell between 17¢ and 36¢ per hundredweight and gross revenues were lower by approximately \$30 million

³
to \$64 million. Because there are approximately 400,000 swine growers in the United States, this translates into an annual loss of gross revenue of between \$75 and \$160 for each farmer. Thus the maximum annual gross revenue

⁴
loss per farmer is not material.

I have reconsidered the price effects according to the court's instructions and reaffirm my determination that subsidized imports of swine from Canada are not a cause of material injury or threat of material injury to the domestic industry producing swine.

³
EC-K-360.

⁴
It appears that my original opinion contained a typographic or arithmetic error. I stated that 1985 gross revenues would be lower by between \$32 million to \$64 million. Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733, Additional and Dissenting Views of Vice Chairman Susan W. Liebeler, at 23. After noting that there were approximately 400,000 swine growers, I found an annual loss of gross revenue of between \$180 and \$360 per farmer. Those figures should have been \$80 and \$160 respectively. This error operated in petitioners favor.

DISSENTING VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Live Swine and Pork from Canada
Investigation 701-TA-224 (Remand)

September 21, 1987

This case was initially decided by the Commission in July 1985¹ and is now before us on remand from the Court of International Trade. I determine that the domestic industry is not materially injured or threatened with material injury by reason of subsidized imports of live swine from Canada.

The Court's remand to the Commission is concerned solely with the estimates of price flexibility used in the Commission's original determination.² These estimates were 2.00, 1.65, and

¹ Live Swine and Pork from Canada, Inv. 701-TA-224 (Final), USITC Pub. 1733 (hereafter "Live Swine and Pork").

² Price flexibility in this case refers to the sensitivity of swine prices to changes in swine quantity. It is equal to the percent change in price divided by the percent change in quantity. Note that price flexibility is related to but is not the same thing as (not the reciprocal of) the elasticity of demand. See Memorandum from Office of Economics, EC-I-259 (July 19, 1987) at 6, 7.

1.00³ -- meaning that the impact of a 1 percent change in swine quantity on swine price ranges from 1 percent to at most 2 percent.

The Court directed the Commission to determine whether these price flexibilities were for live swine only or for swine and pork.⁴ If the latter, "the Commission must reconsider its determination with respect to the effect of increased Canadian imports on United States live swine prices."⁵

On reviewing the evidence, our Office of Economics found that the Commission's price flexibility estimates were based on data that included a small quantity of pork meat.⁶ It also found that the effect of this commingling was a very slight bias in favor of the petitioner. The bias-adjusted price flexibilities are 1.94-1.98, 1.60-1.63, and 0.97-0.99,⁷ slightly smaller than the initial estimates given above. While

³ Memorandum from the Office of Economics, EC-I-266 (July 24, 1985) at 1.

⁴ Alberta Pork Producers' Marketing Board v. United States, No. 87-97, slip op. at 50.

⁵ Id.

⁶ Memorandum from the Office of Economics, EC-K-355 (Sept. 10, 1987). Id. at 7.

⁷ Id. at 9.

the adjustments are small, they are not, however, nil.

Therefore, I move on to reconsider the determination of this matter.

As to material injury and threat of material injury, I concur with the views of Chairman Liebeler.⁸ I also note that the Office of Economics has estimated the adverse effect on domestic industry revenues caused by swine imports from Canada at their highest market penetration level (2.6 percent in 1985).⁹ If those Canadian imports had been eliminated from the U.S. market entirely, then within one year the domestic industry's total revenue would have been, at most, only 2.7 percent higher.¹⁰ I do not believe that this magnitude is sufficient to constitute material injury in this case. Because of this and for the reasons given by Chairman Liebeler, I determine that subsidized imports of live swine from Canada were not a cause of material injury to the domestic industry.

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See Additional and Dissenting Views of Chairman Liebeler, supra, and Live Swine and Pork, Additional and Dissenting Views of Vice Chairman Susan W. Liebeler, at 19-24.

9

Memorandum from the Office of Economics, EC-K-361 (Sept. 14, 1987).

10

Id. at 4. See Transcript, Meeting of Commission, September 15, 1987, statement of Dr. Tracy Murray of the Office of Economics.

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