

Quebec and Alberta programs back to the Department for reexamination.

On April 11, 1991, the DOC reported to the subsidy panel that it would comply with the panel's findings of March 8, 1991. Thus it eliminated the benefits attributed to the Quebec program from the subsidy rate, and also modified its original subsidy calculation for the Alberta program. As a result of the December and April decisions, the countervailing duty rate on imports of pork from Canada will be reduced from \$0.08/kg to \$0.03/kg.

3.0 FTA Injury Panel

On August 24, 1990, the FTA injury panel issued its report. The Canadian pork industry had challenged the ITC threat of injury determination on the grounds that the finding was largely based on faulty statistical information regarding Canadian pork production.

The injury panel, in a unanimous decision, confirmed the Canadian argument that the threat of injury finding was not supported by the evidence on the record. The panel remanded the matter back to the ITC for reconsideration of a number of its original findings. The ITC issued its remand determination on October 23, 1990. That decision was reviewed by the FTA panel, which issued its report on January 22, 1991. The panel again held that there was insufficient evidence to support the ITC's findings of a threat of injury and instructed the ITC to review its findings accordingly.

On February 12, 1991, the ITC issued a second, revised injury finding pursuant to the instructions issued on January 22 by the FTA panel reviewing the matter. In this finding, the ITC complied with the panel's instructions and held that there was no threat of injury, while making clear its disagreement with the panel.

On March 29, 1991, the U.S. Trade Representative requested the establishment of an Extraordinary Challenge Committee to review the January 22 decision of the FTA injury panel. This request was based on the allegation that the panel had seriously departed from a fundamental rule of procedure or manifestly exceeded its jurisdiction, and that these actions threatened the integrity of the FTA panel review process. The members of the Extraordinary Challenge Committee are Mr. Justice Gregory Evans and Mr. Justice Willard Estey of Canada and Judge Arlin Adams of the U.S. as Chairman.

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