

determine a separate rate for this specific category of hogs based on the evidence in the administrative record. The panel remanded again, with specific instructions, on these two issues

With respect to the Saskatchewan Hog Assured Returns Program, the Alberta Crow Benefit Offset Program and the Feed Freight Assistance Program, Commerce recalculated the benefits to live swine under these programs, in accordance with the panel's instructions.

On November 9, 1992, the Binational Panel affirmed in part and remanded in part Commerce's determination made on remand concerning the final results of the fourth administrative review of the order.

The panel denied Commerce's request to reopen the record to include additional reports on the number of agricultural commodities in Canada. The panel rejected Commerce's finding of specificity with respect to two government agricultural support programs, instead directing Commerce to find that the programs were not specific. Furthermore, Commerce was directed to calculate a separate rate for weanlings. Commerce did so on November 19, 1992, and on December 21, 1992, the panel affirmed the determination on remand.

#### 4.2.3 Extraordinary Challenge

On February 9, 1993, the Office of the U.S. Trade Representative filed a request for an Extraordinary Challenge Committee to review both decisions made by the Binational Panel with respect to the fourth administrative review and the re-determination pursuant to the remand by Commerce, based on the allegation that the panel did not apply the appropriate standard of review.

On April 8, 1993, the Extraordinary Challenge Committee issued its decision, declining to amend or overturn the decision of the *Swine IV* panel. The Committee stated that, based upon the record before it, it could not conclude that the panel "did not conscientiously apply the appropriate standard of review."

#### 4.2.4 Fifth Administrative Review

On July 8, 1991, the Canadian Pork Council filed a request for a Binational Panel Review, as did the Government of Canada and the Government of Quebec. Panel review was requested of the final results of the fifth administrative review covering the period from April 1, 1989, through March 31, 1990.

On August 26, 1992, the panel affirmed Commerce's determination regarding the Government of Canada's Feed Freight Assistance Program. The panel also affirmed Commerce's determination that sows, boars and weanlings were within the scope of the order. The panel remanded to Commerce its determinations regarding: