

BACKGROUND INFORMATION: GATT AND FTA PANELS ON PORK

In 1989, U.S. authorities imposed countervailing duties on Canadian exports of fresh, chilled and frozen pork to the United States. There are three panel proceedings stemming from this action. One was a General Agreement on Tariffs and Trade (GATT) panel, while two were binational panels under the Canada-U.S. Free Trade Agreement (FTA). One FTA panel concerned itself with the subsidy findings by the U.S. Department of Commerce (DOC). The other FTA panel addressed the finding of a threat of injury by the U.S. International Trade Commission (ITC).

To establish and maintain a countervailing duty order, a country must show not only that an imported product has been subsidized, but also that its industry has been injured or threatened with injury.

1.0 GATT Panel

On August 3, 1990, the GATT Panel on Pork from Canada released its report to Canada and the U.S. The panel supported Canada's position and held that the U.S. acted in a manner inconsistent with its GATT obligations by applying the automatic passthrough provisions in U.S. countervailing law to imports of pork from Canada. Canada is urging the U.S. to adopt and implement the GATT panel report.

2.0 FTA Subsidy Panel

The FTA subsidy panel issued its report on September 28, 1990. The panel remanded the matter back to the DOC for reconsideration of certain issues.

On December 7, 1990, the DOC issued its remand decision pursuant to the September 28, 1990 instructions from the subsidy panel. In this decision, the DOC again found that two Canadian programs (the National Tripartite Stabilization Program and Quebec's Farm Income Stabilization Program) were countervailable, and also confirmed the arbitrary rate it had established for benefits under Alberta's Crow Benefit Offset Program.

The Canadian parties objected to the results of this remand determination and requested that it be reviewed by the FTA subsidy panel to ensure that it conformed with that panel's original instructions. The panel then conducted this review and issued its report on March 8, 1991.

In its report of March 8, 1991, the subsidy panel accepted the DOC's ruling with respect to the Tripartite Program, concluding that it was countervailable because it provided benefits to a specific group of industries. However, the panel remanded the