

On January 20, 1999, the ITC released a preliminary affirmative determination of injury, finding a reasonable indication that the domestic industry was threatened with material injury by reason of allegedly subsidized imports from Canada. On May 11, 1999, Commerce released a postponed negative countervailing duty determination, in which estimated net subsidy rates were found to be *de minimis*. The total estimated preliminary net countervailable subsidy rate for all producers/exporters of live cattle was 0.38%.

On October 22, 1999, Commerce released a final negative countervailing duty determination of 0.77% *ad valorem*. Again, the estimated net subsidy rate for the investigated product was found to be *de minimis*. The ITC released its final determination on November 24, 1999, stating that the industry in the United States was not materially injured or threatened with material injury by reason of imports of live cattle from Canada sold in the United States. The investigation was therefore terminated.

8.2 Key Issues

8.2.1 Standing

Commerce considered whether the industry alleging injury had standing—that is, whether a minimum percentage of the domestic industry supported the countervailing duty petition.

To meet this requirement, the domestic producers or workers supporting the petition were required to account for: (1) at least 25% of the total production of the domestic like product; and (2) more than 50% of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

In evaluating industry support, Commerce must consider what constitutes a domestic like product in order to define the industry producing domestic like products. The Tariff Act of 1930¹⁷⁵ defines 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 investigation.” In this case, the petition defined domestic like product as live cattle, feeder steers and heifers, slaughter steers and heifers, and cull cows and bulls, which are all fed for the purpose of beef production.¹⁷⁶ Since no party commented on the petition’s definition of domestic like product, and since there was nothing in the record to indicate that the definition was inaccurate, Commerce accepted the petition’s definition of domestic like product.

175 § 771 (10).

176 As domestic like products, Commerce considered neither purebred cattle used for breeding (unless and until cattle are culled), nor dairy cows used to produce milk for human consumption.