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# news release

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## U.S. DECISION BRINGS LOWER DUTIES FOR CANADIAN HOG PRODUCERS

Minister for International Trade Roy MacLaren and Agriculture and Agri-Food Minister Ralph Goodale commented today on the United States Department of Commerce (DOC) final ruling in its sixth administrative review of a countervailing duty against Canadian exports of live swine.

While noting their disappointment that the DOC review upheld the countervailability of Canadian programs, the ministers pointed out that today's decision will result in refunds of duty deposits to Canadian hog farmers of approximately \$1.4 million. This is due to the fact that the level of countervailing duty in effect during the 1990-91 period was higher than the final determination announced today by DOC.

The ministers noted that this ruling will also reduce the deposit rate for all new Canadian exports to the United States. Canadian hog exporters have been paying a deposit of 20.1 cents per kilogram or 9.27 cents per pound (approximately \$20 per hog) on these shipments. "The new rate of 2.95 cents per kilogram or 1.34 cents per pound will substantially reduce farmers' costs," Mr. MacLaren said.

Mr. Goodale criticized the length of time that the DOC took to make its final ruling. The decision was announced 18 months later than originally expected. "Canadian farmers should have benefitted from the return of their deposits much earlier," Mr. Goodale said.

Mr. MacLaren said the Canadian government disagrees with the DOC finding on the countervailability of the National Tripartite Stabilization Program for Hogs. He added that the Government of Canada remains committed to defending the interests of Canadian exporters of live swine to the United States in future administrative reviews by the U.S. DOC.

The federal ministers also expressed their disappointment that the DOC decided to impose the same level of duty on sows and

boars (mature hogs) as on market hogs. Before this administrative review these animals were subject to a lower countervailing duty.

All parties to this proceeding have 30 days in which to request a review of the DOC decision by a Chapter 19 dispute settlement panel which would be established under the North American Free Trade Agreement.

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## Backgrounder

### U.S. ADMINISTRATIVE REVIEW PROCESS

An administrative review may be conducted by the U.S. Department of Commerce (DOC) at least once during each 12-month period beginning on the anniversary date when a countervailing duty (CVD) order was issued. The review process is not automatic and must be requested in writing by an interested party during the anniversary month of the publication of the order. Such reviews are designed to determine the actual amount of subsidization during a particular period, and adjust the CVD accordingly.

An administrative review is essentially a replay of the original investigation, and therefore is an extensive procedure. It involves issuance of questionnaires, presentation of arguments by interested parties and publication of initial and final results of the review.

It also provides a new opportunity for scrutiny into governmental policies affecting the subject merchandise besides those initially investigated. As a result, the DOC may determine that "new" programs are countervailable and amend the order to include a duty that offsets the benefits of these additional programs.

If the deposits collected during the review period are greater than the actual margin found, the DOC will refund the overpayments with interest. If the reverse occurs, the DOC will collect the underpayment with interest.

If, after the completion of a review, the DOC determines that the subsidy margin is below 0.5 percent, then the margin is considered *de minimis* (i.e. too low to act upon) and the DOC waives the duty deposit requirement.

Because the 1985 U.S. countervailing duty on live swine predates the Canada-U.S. Free Trade Agreement, Canada has been able to take only the findings from each review period to a Chapter 19 panel, and not the initial decision. Thus, only final determinations in administrative reviews by the U.S. DOC issued after January 1, 1989, may be reviewed by binational North American Free Trade Agreement panels.