



news release

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FTA EXTRAORDINARY CHALLENGE COMMITTEE UPHOLDS CANADA'S POSITION

The Honourable Michael Wilson, Minister of Industry, Science and Technology and Minister for International Trade, and the Honourable Charles Mayer, Minister for Agriculture, announced today that an Extraordinary Challenge Committee of the Canada-U.S. Free Trade Agreement (FTA) dismissed allegations by the United States that an FTA panel went beyond its authority in an October 30, 1992 ruling on Canadian exports of live swine to the United States.

The Committee reviewed a number of issues raised by the FTA dispute settlement panel. The FTA panel had been struck at the request of Canada to look at the results of an administrative review by the U.S. Department of Commerce on imports of live swine from Canada. The administrative review covered the period April 1, 1988 to March 31, 1989.

The Committee's decision is binding. As a result, between \$8 million and \$10 million in duties already paid on shipments during the 1988-1989 review period will be refunded to Canadian exporters.

The Committee ruled unanimously that the FTA panel had not "manifestly exceeded its jurisdiction by failing to apply the correct standard of judicial review." This is one of the criteria necessary for launching an extraordinary challenge under the FTA.

In its ruling, the Committee stated: "After full consideration of the arguments presented by the Parties and the Participants in their briefs and at the March 10, 1993 hearing, we conclude ... the alleged errors by the Panel do not meet the test for a successful extraordinary challenge that is set forth in Article 1904.13 (of the FTA). Accordingly, we dismiss the request for an extraordinary challenge...."

Both Minister Wilson and Minister Mayer said that the Committee's ruling confirmed the advantages of the FTA dispute settlement process for Canadian exporters.

"We have now seen that in both extraordinary challenge proceedings under the FTA, Canada's position has been upheld," said Mr. Wilson. "Once again we have seen that the system works, and that is of benefit to all Canadians."

Mr. Mayer added: "This is good news for the Canadian industry. This ruling proves the importance of the FTA in protecting Canadian agricultural producers from unfair trade actions."

The first FTA extraordinary challenge resulted in a June 1991 ruling for the Canadian pork industry and a refund of \$20 million to the industry.

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