THE
CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

CANADA

GRAIN CORN PUBLIC INTEREST

December 29, 1989

REFERENCE NO. MN-89-002

GRAIN CORN

PUBLIC INTEREST

PRELIMINARY EXAMINATION

OF

CHANGED CIRCUMSTANCES

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THE CANADIAN INTERNATIONAL TRADE TRIBUNAL | LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR
CANADA

December 29, 1989

The Honourable John McDermid
Minister of State
(Privatization and Regulatory Affairs)
House of Commons
Ottawa, Ontario
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Dear Mr. McDermid:

This is in reply to your letter dated October 20, 1989, concerning the public interest on grain corn. The letter issued a reference, pursuant to section 19 of the *Canadian International Trade Tribunal Act*, which instructed the Canadian International Trade Tribunal (the Tribunal) to conduct "a preliminary examination as to whether any new evidence discloses a reasonable indication of a material change in circumstances from October 1987" when a previous corn public interest report was issued by the then Canadian Import Tribunal. The reference instructed the Tribunal to proceed forthwith with a second public interest inquiry if the results of the preliminary examination satisfied it that this was warranted. The report of the Tribunal with respect to the investigation into changed circumstances was to be provided to you by December 31, 1989.

Pursuant to section 7 of the *Canadian International Trade Tribunal Act*, I appointed Robert J. Bertrand, Q.C., Presiding Member, Sidney A. Fraleigh, Member and Kathleen Macmillan, Member, to conduct the preliminary examination and to report their findings thereon. On behalf of the Tribunal, I am pleased to submit their report for your consideration.

The panel has concluded that, although a number of circumstances affecting corn producers and users have changed since 1987, none of these changes has been sufficiently material to warrant a review of the original public interest finding.

The report also makes several observations on the impact of the countervailing duty on corn markets and concludes that, except during the drought of 1988-89, the duty had little, if any, impact on corn prices. Analysis concluded by the Tribunal indicates that normal crop and market conditions will prevail this year. Moreover, medium term forecasts indicate that normal conditions are likely to continue in the near term.

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In current and forecast near-term market circumstances, therefore, the countervailing duty is expected to have little or no effect on prices paid by agricultural and industrial users and by consumers of corn-based products. Accordingly, I commend to you the conclusion of the Tribunal panel that no full public interest inquiry is warranted at this time. I would, however, draw your attention to the panel's suggestion that if (contrary to current forecasts) short supply conditions were to recur in the near term, a reconsideration of the appropriate level of the countervailing duty may be warranted.

Finally, I would like to report that the Tribunal received a number of submissions, including those from the Nova Scotia and New Brunswick Departments of Agriculture, which specifically requested an exemption from the countervailing duty pursuant to the provisions of section 76 of the *Special Import Measures Act*. Such an exemption could be made only if the Tribunal reviewed the original finding of material injury. The Tribunal will consider these requests on their merits and will be rendering its separate decision, on the need for such a review, forthwith.

Yours sincerely,

John Coleman

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INTRODUCTION

On March 6, 1987, by a majority decision of the panel Members, the Canadian Import Tribunal (CIT) found that the subsidizing of importations into Canada of grain corn in all forms, excluding seed corn, sweet corn and popping corn, originating in or exported from the United States of America, with the exception of such grain corn for consumption in the Province of British Columbia, and yellow and white dent corn, imported by snack food and tortilla manufacturers, for use by them in the manufacture of snack foods and tortillas, had caused, was causing and was likely to cause material injury to the production in Canada of like goods. This decision was rendered subsequent to an investigation by the Deputy Minister of National Revenue for Customs and Excise who determined that imports of grain corn from the United States were benefiting from a subsidy that could be countervailed, and the margin of subsidization was established at US$0.849 per bushel (approximately CAN$1.10).

During the course of the material injury inquiry, the CIT received representations from a number of corn users who claimed that imposition of the duty would not be in the public interest. A subsequent examination of the public interest issues led the CIT, in a report dated October 20, 1987, to advise the Minister of Finance that, in its opinion, the imposition of a countervailing duty on imports of grain corn from the United States in excess of CAN$0.30 per bushel, or the amount of the subsidy, whichever was less, would not be in the public interest.

On February 4, 1988, the Minister of State for Finance announced that the level of the countervailing duty was being reduced to CAN$0.46 per bushel (CAN$18.11 per tonne) and that the government would be asking the Tribunal to reconsider the public interest issue in approximately 18 months.

The Honourable John McDermid, Minister of State (Privatization and Regulatory Affairs), in a letter dated October 20, 1989, issued the following reference to the Canadian International Trade Tribunal (CITT), which replaced the CIT on December 31, 1988:

(a) Firstly, the CITT shall conduct a preliminary examination as to whether any new evidence discloses a reasonable indication of a material change in circumstances from October 1987, that would satisfy the CITT that, in its opinion, a second comprehensive inquiry which would necessitate public hearings, was warranted. After the examination the Tribunal shall provide me with its advice with reasons therefor, in writing, by December 31, 1989.

(b) Secondly, where the CITT is of the opinion that the evidence does disclose such a reasonable indication, the CITT shall immediately commence a comprehensive public inquiry in early 1990 which would include at least the following terms of reference:

(i) a consideration of any new evidence of any material changes in circumstance from October 1987, the date of the CIT report, to the present,

(ii) the consideration would at least include an evaluation of:

(1) the 1989 crop production statistics compiled by Statistics Canada, and

(2) current and future market conditions.

(iii) a consideration of any new evidence for the purpose of rendering an opinion as to whether the imposition under section 3 of SIMA of the full amount of the countervailing duty on imports of grain corn would not, or might not, be in the public interest.

(c) Thirdly, based upon the evidence considered as a result of the inquiry, the CITT shall report to me by March 31, 1990 on at least the following:

(i) its opinion as to whether the imposition under section 3 of SIMA of the full amount of the countervailing duty on imports of grain corn would not, or might not, be in the public interest,

(ii) a consideration of the most appropriate prospective level for the duty (for example, anywhere within a range from 0 to the full amount permitted under section 3, as a result of the finding made on March 6th, 1987), and,

(iii) a statement of the facts and reasons therefor.

This report is made pursuant to section 19 of the CITT Act which requires the Tribunal to inquire into and report to the Minister on any tariff-related matter, including any matter concerning the international rights or obligations of Canada in connection therewith, that the Minister refers to the Tribunal for inquiry.

A notice of inquiry relating to the preliminary examination was issued on October 25, 1989. The notice was published in the November 4, 1989, issue of the Canada Gazette. Parties having an interest in the inquiry were invited to make written submissions containing relevant facts, opinions and arguments in support of any views pertinent to the examination. Submissions were to be filed no later than November 23, 1989. A public hearing was not scheduled.

A list of the parties who filed submissions with respect to the preliminary examination is contained in Appendix VII of this report. In all, 13 submissions were filed in support of a second comprehensive inquiry respecting the public interest. The parties cover a wide range of interest groups including agricultural feed users, feed manufacturers and industrial users, as well as the Nova Scotia Department of Agriculture and Marketing, the New Brunswick Department of Agriculture and the Government of the United States of America.

Opposed to a second public interest inquiry are the corn growers of Ontario, Quebec, Manitoba and Alberta. In their joint submission, it is argued that there has been no material change in circumstances since October 1987, which would warrant such an inquiry.

The Tribunal, in conducting its research and analysis, made use of a wide range of published data which were drawn largely from the public domain. In addition, the advice of Agriculture Canada officials and an independent consultant (Professor Lawrence Martin, University of Guelph) assisted in clarifying and evaluating various corn market scenarios.

This report is organized into four sections: Section I is an overview of developments in the corn market and an assessment of the impact of the countervailing duty which updates the analysis that was done in the original public interest inquiry; Section II offers a summary of the submissions; Section III describes and evaluates a number of events alleged to be material changes in circumstances; and Section IV presents the Tribunal's conclusions.

SECTION I

CORN MARKET STATISTICS AND ANALYSIS

Production, Supply and Disposition

Table 1 shows Canadian production of corn by province for the past 10 crop years. The average domestic corn harvest over the past 10 years has amounted to approximately 6.3 million tonnes. The 4 years following the imposition of the countervailing duty on corn, in November 1986, have seen a fluctuating pattern of output:

- 1986/87 was a low average year with output of 5.9 million tonnes;
- 1987/88 produced a bumper crop of 7.0 million tonnes, a 10-year high;
- 1988/89 saw drought conditions and a 10-year low crop of 5.4 million tonnes;
- 1989/90 output recovered to an estimated 6.4 million tonnes, slightly above the long-run average.

Overall, the trend in corn production over the past 10 years has been one of modest growth.

The domestic corn market is dominated by Ontario which accounts for 73 percent of the 1989/90 output. Quebec is the second largest producer, representing 25 percent of corn output. With 2 percent of domestic production, Manitoba is the only other province growing significant quantities of corn. Corn output by Nova Scotia and Alberta each amounts to less than 1 percent of domestic production.

Over the past 10 years, corn production in Quebec has nearly doubled, moving the province closer to corn self-sufficiency. There have been steady gains in each of the crop years following the imposition of the countervailing duty on corn, and in 1989/90, production is at a record high of 1.6 million tonnes. Since 1986/87, Quebec's share of domestic output has increased by 6 percentage points. In Ontario, production has been above or near the 10-year average of 4.9 million tonnes in three of the four years since the imposition of the countervailing duty on corn.

TABLE 1

Production of Corn by Province - Canada (Thousands of Tonnes)

	N.S.	Que.	Ont.	Man.	Alta.	Total
1980/81	-	838.2	4,710.0	190.5	14.5	5,753.2
1981/82	8.9	975.4	5,236.0	431.8	30.5	6,682.6
1982/83	9.4	1,040.0	5,195.0	254.0	23.9	6,522.3
1983/84	10.0	975.0	4,696.0	218.0	31.8	5,930.8
1984/85	10.2	1,290.0	5,207.0	236.0	34.3	6,777.5
1985/86	7.4	1,420.0	5,436.0	76.0	30.5	6,969.9
Corn CVD*						
1986/87	4.2	1,130.0	4,699.0	61.0	17.3	5,911.5
1987/88	6.4	1,410.0	5,461.0	109.0	28.4	7,014.8
1988/89	5.8	1,500.0	3,734.0	104.0	25.4	5,369.2
1989/90(e)	8.4	1,570.0	4,699.0	109.0	14.0	6,400.4
Average 1980/81 to 1989/90	7.9**	1,214.9	4,907.3	178.9	25.1	6,333.2
Standard Deviation	1.9**	242.4	491.3	107.0	7.0	532.5
Rate of Change (Average Annual Percent)	-0.7**	7.2	<-0.1	-6.0	-0.4	1.2

Source: 1980/81 - Canadian Grain Industry Statistical Handbook 86 & 88, Canada
1987/88 Grains Council
1988/89 - Statistics Canada Catalogue 22-002, Field Crop Reporting, Vol. 8
1989/90

(e) Estimate, as of November 30, 1989.

Crop year August 1 - July 31

* Corn countervailing duty
** Statistics calculated from 1981/82 to 1989/90

Table 2 shows areas of corn planted and yields by province for the past 10 crop years. Since 1980/81, increases in domestic corn output have been due to yield improvements more than to increases in corn acreage. Yields for the current crop year are at the second highest level in 10 years. Over the past 4 years, the area of corn planted in Quebec has continued to increase; Ontario acreage remained relatively constant in 1986/87 and in 1987/88, declined to a 10-year low in the drought year and then recovered in the current crop year. The total area of corn planted in Canada has improved from drought year levels, but is still below the 1985/86 level.

TABLE 2

Area and Yield of Corn by Province, Canada
(Thousands of Hectares, Tonnes per Hectare)

	N.S.		Que.		Ont.		Man.		Alta.		Canada	
	Area	Yield	Area	Yield	Area	Yield	Area	Yield	Area	Yield	Area	Yield
1980/81	-	-	154.0	5.44	809.0	5.82	56.7	3.36	2.2	6.59	1,021.9	5.63
1981/82	1.9	4.68	165.4	5.90	878.0	5.96	91.1	4.74	4.5	6.78	1,140.9	5.86
1982/83	2.0	4.70	179.6	5.79	842.0	6.17	80.9	3.14	4.5	5.31	1,109.0	5.88
1983/84	2.0	5.00	182.0	5.36	809.0	5.80	77.0	2.83	4.9	6.49	1,074.3	5.52
1984/85	2.2	4.64	210.0	6.14	858.0	6.07	73.0	3.23	6.1	5.62	1,149.3	5.90
1985/86	2.2	3.36	225.0	6.32	850.0	6.40	40.5	1.88	5.7	5.35	1,123.4	6.20
Corn CVD												
1986/87	2.0	2.10	234.4	4.82	741.0	6.34	13.8	4.42	3.0	5.77	994.2	5.95
1987/88	1.2	5.33	228.0	6.18	745.0	7.33	20.2	5.40	4.9	5.80	993.3	7.02
1988/89	1.0	5.80	240.0	6.25	704.0	5.30	32.4	3.21	4.0	6.35	981.4	5.47
1989/90(e)	1.4	6.00	251.0	6.25	724.0	6.49	34.4	3.17	3.6	3.89	1,014.4	6.31
Average 1980/81 to 1989/90	1.8*	4.62*	206.9	5.85	796.0	6.17	52.0	3.5	4.3	5.80	1,060.2	5.97
Standard Deviation	0.4*	1.15*	32.4	0.47	59.3	0.51	26.0	1.0	1.1	0.81	63.0	0.43
Rate of Change (Average Annual Percent)	-3.7*	3.2*	5.6	1.6	-1.2	1.2	-5.4	-0.6	5.6	-5.7	-0.1	1.3

Source: 1980/81 - Canadian Grain Industry Statistical Handbook 86 & 88, Canada Grains Council
1987/88
1988/89 - Statistics Canada Catalogue 22-002, Field Crop Reporting Series, Vol. 8
1989/90

(e) Estimate, as of November 30, 1989.

*Statistics calculated from 1981/82 to 1989/90.

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Table 3 provides details of corn supply and disposition in Canada over the past 10 years. Domestic corn consumption has remained relatively stable during the past decade, experiencing a very modest upward trend. On average, total domestic production has accounted for 97 percent of domestic consumption since 1980. Because production has fluctuated from year to year, imports have varied considerably to meet a relatively steady demand for corn. During the bumper crop of 1987/88, exports rose significantly in the face, evidently, of excess domestic supply. In the years 1986/87 and 1988/89, imports increased. Part of this increase was due to domestic shortfall. However, in 1988/89, other factors may also have influenced these increases, including the switching of corn purchases from Canadian to US sources by Casco, a large industrial corn user, to take advantage of certain duty drawback provisions for which it was eligible.

Corn stocks have also been subject to relatively minor variations, and even in the drought year of 1988/89, there was not a major stock drawdown. The volume of ending stocks as a percentage of total utilization is sometimes used as a measure of total supply and demand balances, with substantial increases over time implying a build-up in stocks. As shown in Table 3, this measure has hardly fluctuated since the beginning of the 1980s, and over the past four years has averaged close to 17 percent.

Corn is a relatively minor cash crop for Canada as a whole with total receipts not exceeding 5.6 percent of all crop cash receipts on average in the past three and one half years. However, as shown in Table 4, corn is an important cash crop for Ontario and Quebec.

TABLE 3

Corn Supply and Disposition - Canada
(thousands of tonnes)

	Aug. 1 Stocks	Production	Imports	Total Supplies	Exports	Human Food Industrial Use	Seed	Feed, Waste Dockage	Domestic Consumption	Total Utilization	Production/ Domestic Consumption %	July 31 Carryover	End Stock/ Utilization %
1980/81	1,386	5,753	1,364	8,503	1,056	1,048	27	5,098	6,173	7,229	93	1,274	18
1981/82	1,274	6,683	822	8,769	1,286	1,047	26	5,235	6,308	7,594	106	1,185	16
1982/83	1,185	6,522	759	8,457	511	999	25	5,364	6,388	6,899	102	1,567	23
1983/84	1,567	5,930	226	7,723	429	1,192	26	5,072	6,290	6,719	94	1,005	15
1984/85	1,005	6,778	612	8,395	570	1,146	27	5,272	6,445	7,015	105	1,381	20
1985/86	1,381	6,970	416	8,767	653	1,237	24	5,427	6,688	7,341	104	1,425	19
Corn CVD													
1986/87	1,425	5,912	642	8,006	143	1,181	23	5,438	6,642	6,785	89	1,194	18
1987/88	1,194	7,015	219	8,428	409	1,240	22	5,516	6,778	7,187	103	1,242	17
1988/89	1,242	5,369	988	7,599	29	1,310	23	5,230	6,563	6,592	81	1,008	15
1989/90(e)	998	6,400	420	7,818	100	N/A	N/A	N/A	6,568	6,668	97	1,150	17
Average 1980/81 to 1989/90	1,266	6,333	647	8,247	519	1,156*	25*	5,295*	6,484	7,003	97	1,243	18
Standard Deviation	172	533	338	405	384	99*	2	145*	185*	311	8	169	2
Rate of Change (Average Annual Percent)	-4	1	-12	-1	-23	3*	-2*	<1*	1	-1	<1	-1	-1

Source: 1980/81 - 1987/88 Canadian Grain Industry Statistical Handbook 86 & 88 Canada Grains Council
1988/89 - Statistics Canada Catalogue 22-007, Cereals and Oil Seeds Review, Vol. 9
1989/90 - Agriculture Canada, Grains and Oil Seeds Branch

(e) Estimate, as of November 30, 1989

Crop year - August 1 - July 31

* Statistics calculated from 1980/81 to 1988/89

TABLE 4

Corn Farm Cash Receipts*
(thousands of dollars)

Calendar year	Quebec	Ontario	Manitoba	Total
1986	126,088 (25.3)	305,939 (15.3)	7029 (0.5)	439,054 (4.8)
1987	95,955 (19.5)	309,302 (17.4)	5938 (0.5)	411,195 (4.7)
1988	143,886 (26.9)	340,913 (17.5)	9729 (1.0)	494,528 (5.6)
Jan. - June 1989	82,989 (24.9)	127,322 (17.0)	5,255 (1.2)	215,566 (5.2)

Source: 1986 Statistics Canada 22-001 Farm Cash Receipts Vol. 48, No. 4
1987, 1988 Statistics Canada 22-001 Farm Cash Receipts, Vol. 49, No. 4
Jan.-June 1989 Statistics Canada 22-001 Farm Cash Receipts, Vol. 50, No. 2

(Corn receipts as a percentage of total crop cash receipts in brackets.)

* Cash receipts include returns from all sales except those associated with direct inter-farm transfers within a province.

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In Quebec, corn represented an average of 24 percent of total crop cash receipts from 1986 to 1988, while for Ontario the figure for the same period was 17 percent. Corn cash receipts showed strong gains in Quebec, but only modest improvements in Ontario in the year of the drought. It may be noted that Quebec escaped the major effects of the drought and, hence, would have been able to derive benefits from the higher corn prices which ensued, which were not available to the same extent in Ontario.

Historically, the majority of corn has been used on the farm of production or has been sold directly farm to farm, with half of the harvest being disposed of or marketed from October to December, and only 10 percent or so being sold during June, July and August. The available information does not suggest that this pattern has changed significantly in the years following the imposition of the countervailing duty.

Corn Prices

The United States is the largest corn producer in the world with production averaging more than 30 times Canada's production. As a result, Canadian corn prices are influenced to a very great degree by conditions in the United States. As well, because of Canada's relatively small share of world trade in corn (which averages 50-70 million tonnes per year - see Appendix I*), Canada is a price taker in world corn export markets. Table 5 contains annual average Canadian and US

* Appendix 1 provides world and US corn supply and disposition from 1982/83 to 1989/90. The data clearly indicate the extent of US domination of world corn markets, as it accounts for 41 percent of production, 30 percent of consumption, 76 percent of exports and 57 percents of corn stocks.

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corn prices for the past 10 crop years. Figure 1 provides a more detailed graphical representation of the underlying price relationship from 1982/83 to the present.

TABLE 5

Canada and United States Corn Prices
(Current Canadian dollars per tonne)

	1980/81	1981/82	1982/83	1983/84	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90 ytd(1)
Canada	152	115	117	160	139	115	87	92	140	119
	-	(-24)	(2)	(37)	(-13)	(-17)	(-24)	(6)	(52)	(-15)
United States	158	125	140	167	142	128	86	104	127	110
	-	(-21)	(12)	(19)	(-15)	(-10)	(-32)	(21)	(22)	(-13)

Source: Agriculture Canada, Market Commentary and other forecasts.

(1) ytd - to the end of November 1989.

(Percentage change from previous year in brackets.)

Canadian prices are annual average Chatham elevator prices; the crop year is August 1 to July 31.

United States prices are annual average Chicago prices converted at prevailing exchange rates; the crop year is October 1 to September 31 for 1980/81 to 1984/85 and September 1 to August 31 thereafter.

Table 5 and Figure I confirm the fact that Canadian corn prices historically have tracked US prices and that, even after the imposition of the countervailing duty, they continue to rise and fall in correlation with US prices. Canadian and US prices both reached 10-year lows between 1986/87 and 1987/88. Although prices rose dramatically during the year of the drought, 1988/89, they were not abnormally high even by recent historical standards. In the months since the beginning of the current crop year, Canadian and US prices have fallen to the depressed levels which prevailed in 1985/86.

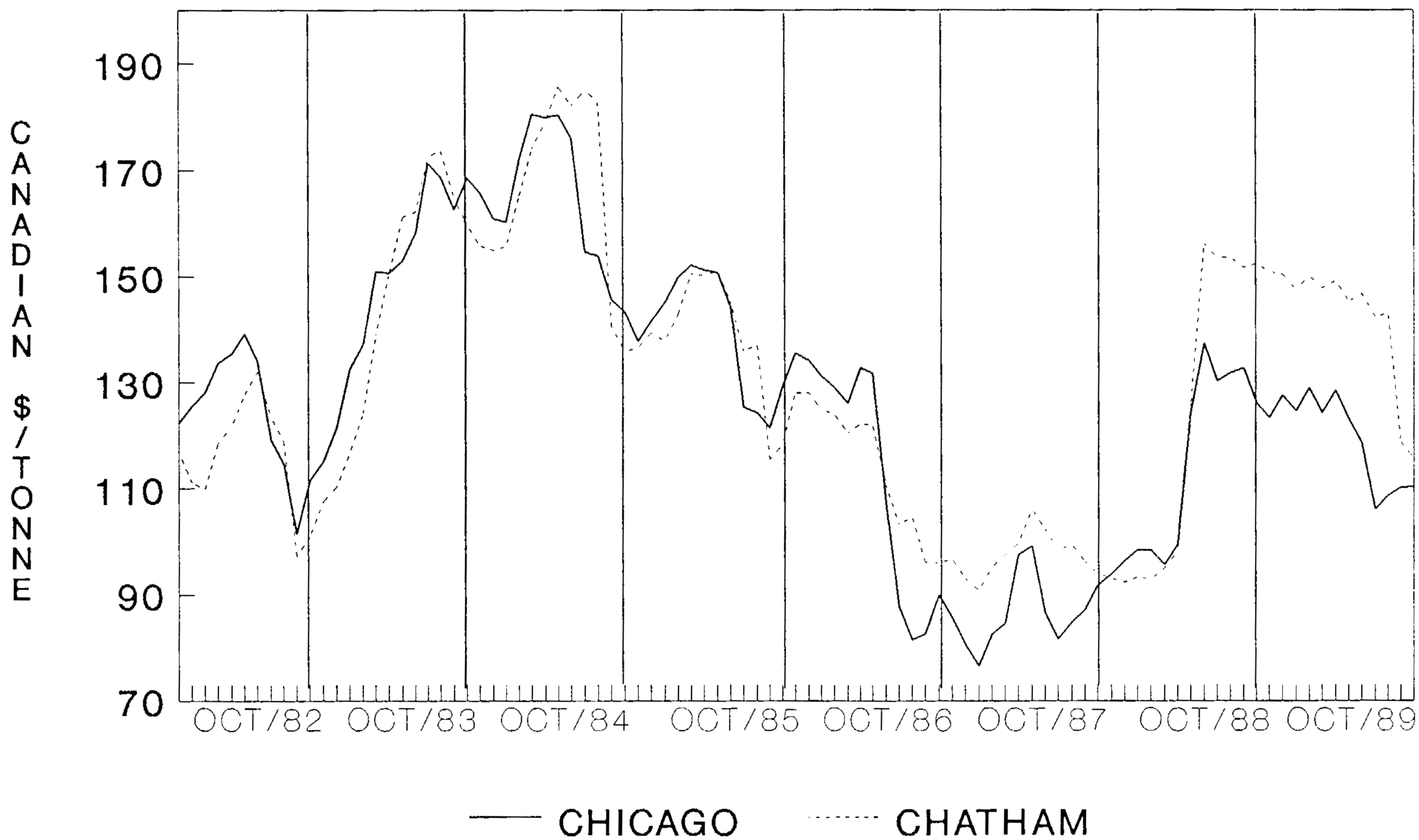
Corn prices at various locations in Canada are usually viewed relative to the nearby futures* price set at the Chicago Board of Trade. The difference between the local price and the Chicago price is referred to as the "basis." Canadian prices and hence the basis are influenced by the Chicago price, local supply and demand conditions, transportation costs, the prevailing Canada-US exchange rate and the level of import duties, including the countervailing duty on corn.

Exchange rate movements have had a significant effect on Canadian corn prices since 1987. From an average of US$0.75 in 1987, the Canadian dollar has strengthened to a current value of US$0.86, an increase of 15 percent. If the 1987 exchange rate had remained constant, the current Chicago corn price, expressed in Canadian dollars, would now be $128 per tonne instead of the mid-December 1989 price of $111 per tonne. The Canadian price of corn would be substantially higher today if exchange rates had remained at 1987 levels.

* This refers to corn contracts for future months delivery that are traded on the Chicago Board of Trade commodities market.

FIGURE I

CHICAGO CASH VS CHATHAM TRACK PRICES



Source: Agriculture Canada

Figure II shows the movement of the basis in Canadian dollars from 1982/1983 to the present. In most of the earlier years, the basis first went into a negative position at the beginning of each crop year as Canadian corn moved into export markets, then became positive in the succeeding summer months as domestic supplies dwindled. It indicates that both the initial imposition of the countervailing duty in 1986/87 and the drought year interrupted this cyclical pattern.

Short and Medium Term Outlook

Canada

Agriculture Canada forecasts that, in the 1990/91 crop year, production could decline slightly from 6.4 million tonnes in 1989/90 to 6.2 million tonnes and corn prices could decrease from a range of $110-$125 per tonne to $105-$120 per tonne (Market Commentary, December 1989). Over the medium-term, production and end-stocks will continue to increase from 1990/91 through 1994/95, while prices are expected to trend downward.

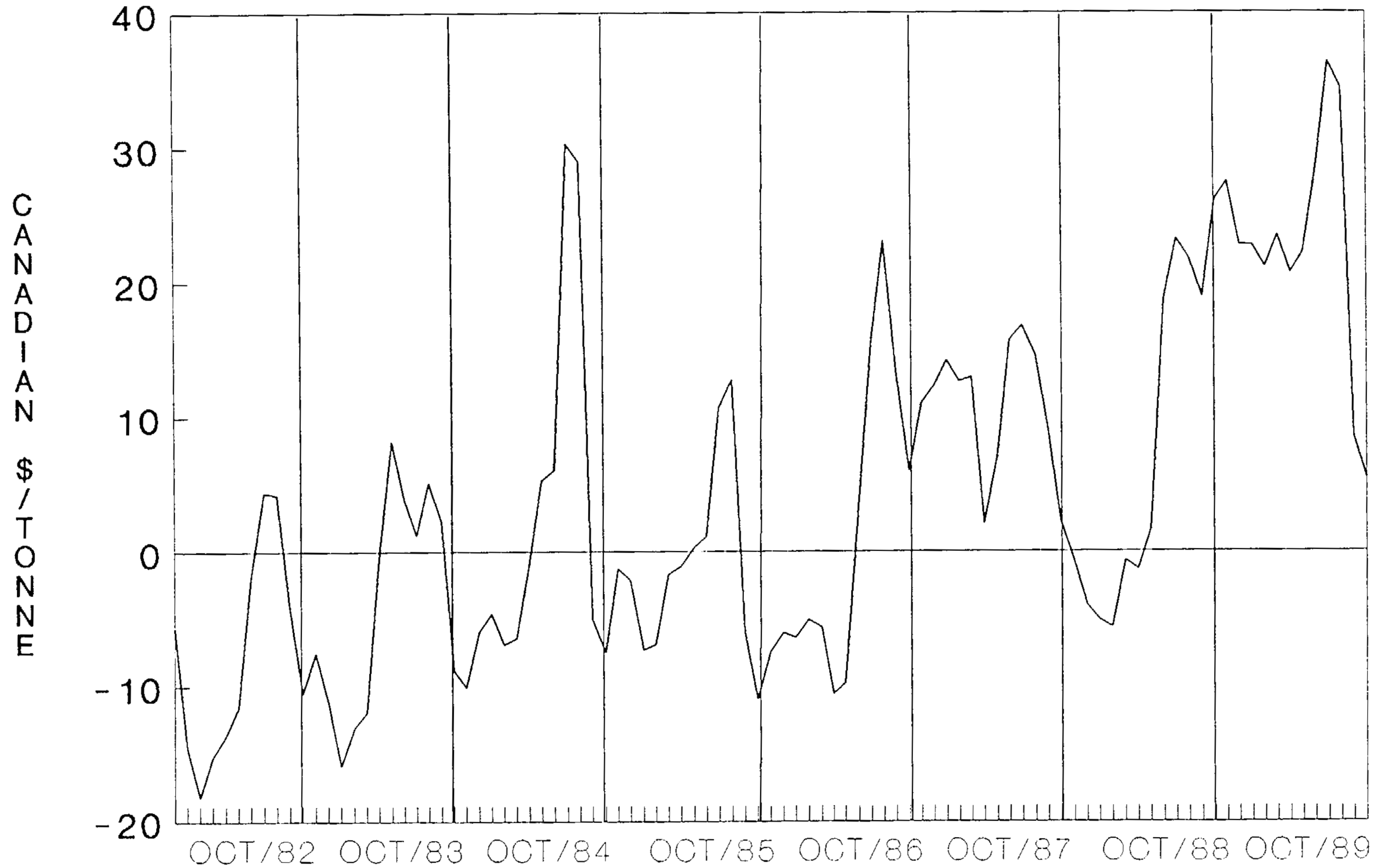
International

According to Agriculture Canada, the medium-term outlook for world coarse grain markets, including corn, is a return to more normal conditions following the high stock conditions of the mid-1980s and the drought of 1988 (Medium Term Outlook, July 1989). World demand for coarse grains is expected to grow at a steady 1.5 percent annually over the next few years. In line with domestic predictions, the Grains and Oil Seeds Branch of Agriculture Canada has recently forecast that there would be continued downward pressure on both US and world corn prices through to 1994/95.

In 1990, the US Congress is expected to approve a new five-year program for agriculture. The new legislation, which will set out government agricultural policies through the first half of the decade, is not expected to differ significantly from the 1985 Farm Bill. Consequently, policies which led to the subsidization of grain corn in the mid-1980s are likely to continue into the 1990s. Revenue Canada has advised the Tribunal that, with no change in policy, declining US corn prices would result in substantial deficiency payments and, hence, continued significant amounts of subsidies that could be countervailed (see Appendix II).

FIGURE II

CORN BASIS CHATHAM - CHICAGO



Source: Agriculture Canada

Effects of Countervailing Duty

In assessing the impact of the imposition of the countervailing duty on corn on prices, it is important, first, to consider how prices are determined generally. According to corn market experts, corn prices in Eastern Canada are determined under three basic market conditions.

(i) Corn Surplus

This condition occurs when a good Ontario crop exceeds both provincial needs and requirements in Quebec and the Atlantic provinces, leaving Eastern Canada as a whole in a surplus position. These conditions place Eastern Canada in an export pricing mode under which Ontario corn prices reflect prevailing prices in world export markets. In these market conditions, import duties, including the countervailing duty on corn, would not have any effect on Canadian corn prices.

(ii) Corn Deficit

The second basic market condition occurs when a poor Ontario crop leaves both Ontario and the rest of Eastern Canada in a deficit situation and substantial US imports are required to meet demand. Under these circumstances, Ontario and Canadian corn prices reflect landed, duty-paid US corn prices and the countervailing duty would tend to have its maximum average impact. Depending on relative prices and market conditions, the availability of substitute Western feed grains may constrain the rise in domestic corn prices.

(iii) Balanced Corn Supply/Demand

Finally, there is the market condition in which Ontario production is surplus to Ontario needs, but Eastern Canada as a whole is in neither a strong surplus nor deficit corn position. In these circumstances, the landed price of US corn will have only a partial influence on domestic prices because of the availability of excess Ontario corn and possibly Western feed grains. It follows that, under these conditions, the countervailing duty on corn would tend to have only a partial impact.

Information on changes in the corn basis was submitted to the Tribunal by Casco, a major industrial corn user (Appendix III) and by the corn growers' associations (Appendix IV). Similar information was obtained by the Tribunal from Agriculture Canada and an independent expert (Appendices V and VI, respectively). Analysis of this information shows a striking consistency in the apparent effects of the countervailing duty as derived from the material provided by each source: namely, a modest average impact in 1986/87 (about $0.10 to $0.20 per bushel), no discernable impact in 1987/88, and a large average impact in 1988/89 (about $0.40 to $0.50 per bushel).

By superimposing these estimated effects on the actual market conditions which prevailed in each of the three post-countervailing duty years, one observes that, in each case, the magnitude of the apparent effect corresponds qualitatively to what was predicted by the pricing model. Specifically, in 1986/87, market conditions resembled the Balanced Corn Supply/Demand case and the average impact of the countervailing duty on domestic prices was modest as would be expected. In the report on the 1987 public interest inquiry, it was noted that corn supplies appeared to have been held off the market during the first half of the 1986/87 crop year due to uncertainties associated with the introduction of the countervailing duty and related expectations about future prices. If this were true, the apparent effect of the countervailing duty would tend to be overstated from what it might otherwise have been under the given crop conditions, i.e., it would otherwise have been on the low side of the observed $0.10 per bushel to $0.20 per bushel range.

In 1987/88, market conditions reflected the Corn Surplus case and, as predicted, the countervailing duty had no apparent average impact on prices.

The drought of 1988/89 saw Eastern Canada in the position described by the Corn Deficit case. As indicated by the corn pricing model, the countervailing duty had a very large apparent impact on prices. The potential price constraining effect of substitute Western feed grains was evidently not present as the drought affected the West as well and increased the prices of these grains.

The above analysis describes apparent average annual effects of the countervailing duty. The Tribunal recognizes that seasonal and local supply conditions may cause variation from the average effects. For example, it is possible that during the summer months of a Corn Surplus market, such as occurred in 1987/88, imports might have had to be brought in to meet certain local needs and the countervailing duty could have had some effect. However, because a proportionally lower amount of corn is marketed in the summer months, the average annual effect on users of the countervailing duty would have remained correspondingly low.

Finally, it is worth noting that a number of econometric studies designed to estimate the long-run impact of the countervailing duty on corn were undertaken in connection with the public interest inquiry in 1987. These studies predicted a countervailing effect ranging from $0.05 per bushel to $0.20 per bushel, assuming normal crop conditions. Recent empirical evidence on the apparent effects of the countervailing duty tends to confirm these earlier estimates.

Future Effects of Countervailing Duty

Final crop estimates for 1989/90 indicate ample corn supplies will be available in Eastern Canada. This year's 6.4 million tonne corn harvest lies between the 5.9 million tonnes harvested in 1986/87 (a "Balanced" year) and the 7.0 million tonnes harvested in 1987/88 (a "Surplus" year). In terms of the analytical model described above, this crop, therefore, would be situated somewhere between the Balanced Corn Supply/Demand case and the Corn Surplus case. Using the model as a predictive tool, such conditions would suggest relatively modest countervailing duty effects over the coming year. In fact, actual prices and spreads (i.e., the basis) already have declined significantly from drought levels.

Medium-term agricultural crop forecasts indicate slow, continued growth in total domestic production, assuming normal climatic conditions. As noted earlier, the outlook in international markets is for no substantial change in US agricultural policies, continued high levels of US production and soft US and world prices. In the face of these domestic and international market conditions, the analytical model would suggest that the average impact of the countervailing duty on corn is likely to continue to be minimal in the future.

Regional Effects of Countervailing Duty

The Tribunal has attempted to determine whether the effects of the countervailing duty on corn have been greater in the Atlantic provinces and the Prairie provinces than in central Canada. As far as the Atlantic provinces are concerned, Agriculture Canada and the Tribunal's independent expert have indicated that corn prices in this region have historically equalled Southern Ontario prices, plus shipping costs less feed freight assistance subsidies. Therefore, to the extent that the countervailing duty on corn affects prices in southern Ontario, prices in the Atlantic provinces should be similarly affected. There is no information which indicates that this is not, in fact, what occurred.

The situation in the Prairie provinces is somewhat different, as high freight costs normally prevent Ontario corn from entering this market. The Prairies are deficient in corn production, and shortfalls are usually made up with imports from the United States, although the amount of corn consumed is quite small by Eastern Canadian standards. Indeed, feed mixes reflect a high proportion of alternate grains compared to Eastern Canada. Given the prevailing corn trade flows, Western corn prices tend to be based on prices in nearby US markets subject to the constraining influence of normally plentiful substitute feed grains. Although market conditions might result in the countervailing duty on corn having a different effect on Western corn prices than on southern Ontario prices, the available information does not indicate that this has occurred.

SECTION II

SUMMARY OF SUBMISSIONS

Agricultural Users

The Canadian Pork Council, a national federation of provincial hog producer marketing organizations, claims that the imposition of a countervailing duty by the United States, on September 13, 1989, on fresh, chilled or frozen pork from Canada is a change in circumstances sufficient to warrant a second public interest inquiry. The Council notes that 90 percent of the countervailing duty on pork is made up of stabilization payments, of which the cost of feed is an important element. Any factor, such as the countervailing duty on corn, which increases feed costs and leads to increased stabilization payments, also serves to increase the potential countervailing duty on pork. Moreover, given the importance of returns from sales of pork into the United States and the influence of the United States on Canadian hog prices, any increase in the countervailing duty on pork has a negative influence on Canadian hog market returns, which increases stabilization payments and thus increases potential countervailing duty assessments on pork by the United States.

Manitoba Pork, the sole marketing agency for hogs in Manitoba, and representing some 3,000 hog producers, states that whereas Manitoba corn consumption exceeds 6.6 million bushels annually, production in the province in 1988/89 was only 4.01 million bushels. In view of the fact that Manitoba is deficient in corn, imports at reasonable market prices are of utmost importance. Any influence which creates an artificially high price for imports will have a detrimental effect upon the Manitoba farming community. The agency alleges that the countervailing duty on corn has distorted domestic prices from a true international cash price, thus uncoupling the Canadian cash corn market from the Chicago futures trade. As a result, Canadian cash corn prices have become more variable and more erratic.

The agency submits that Manitoba hog and pork producers find it increasingly difficult to compete with US producers because of the countervailing duty on corn, Wheat Board regulations which restrict access to cheaper feed and, now, the application of a countervailing duty on pork shipments to the United States. Moreover, the agency claims that the drought in the 1988/89 crop year disproportionately disadvantaged Manitoba producers, as US imports of corn into Manitoba increased at a rate some three times greater than in Ontario.

The Canadian Feed Industry Association, Atlantic Division (CFIA Atlantic), which represents the majority of commercial feed manufacturers in the region, submits that the countervailing duty on the corn moving into the Atlantic region has increased their commercial feeder costs by an average of $1,700 per feeder, whereas Ontario corn growers have benefited by only $75 each, thus creating an inequitable cost/benefit balance to the disadvantage of Atlantic livestock producers.

The Association also expresses concern with respect to decreasing benefits available from the Feed Freight Assistance Program in Atlantic Canada, which it claims now offset actual freight costs by some 25 percent, down from 90 percent in 1970. Moreover, the Association claims that the discontinuance of the "At and East" subsidy (which offset the costs of Western rail grain shipments for export through Atlantic ports) has had severe ramifications for the Halifax and Saint John grain elevators and has resulted in increases in storage, off-loading and wharfage charges in Halifax. These cost increases for water shipments provide room for competitive increases in rail freight rates, and consequently could adversely affect the profitability of Atlantic livestock producers.

The CFIA, Manitoba Division, claims that there have been a number of material changes in circumstances since 1987 which warrant a second public interest inquiry. These changes include the ongoing corn deficiency in Manitoba and the other Prairie provinces, the drought in the prairies which may intensify in 1990, the loss of comparative advantage in livestock and poultry production caused by the countervailing duty on corn which resulted in inflated feed grain prices, the hardships caused to Manitoba's livestock and poultry producers, the inflation in consumer prices for meat and dairy products caused by the countervailing duty on corn and the lack of significant benefit to Ontario corn producers from the application of the countervailing duty.

In a joint submission filed by the *Association canadienne des industries de l'alimentation animale, section Québec, Association professionnelle des meuniers du Québec, Association des centres de grains régionaux du Québec* and the *Association des négociants en céréales du Québec*, a second public interest inquiry is requested. They submit that an evaluation of US market factors will reveal that corn subsidy levels have declined since 1987.

The associations recommend the elimination of the countervailing duty on corn because of its impact on the US countervailing duty on Canadian shipments of pork, for the reasons outlined above.

In addition, the associations submit that the closing of a major Canadian industrial corn user, St. Lawrence Starch Company Limited, because of the countervailing duty on corn, and the resultant loss of 230 jobs, is a further change in circumstances which warrants a new inquiry.

The Atlantic Grains Council has taken a neutral position with respect to a further public interest inquiry. While expressing their concern that reduction or removal of the countervailing duty on corn could materially affect their returns, the Council also recognizes that the potential damage to the Nova Scotia livestock feeding sector is greater than the benefits to corn producers.

Shaw Milling Ltd., a small family-owned feed business located in Sault Ste Marie, requests the removal of the countervailing duty on US corn. The company claims that the countervailing duty unfairly and unnecessarily prevents them from doing what they had always done, namely, purchasing US corn from nearby Michigan and Wisconsin because of the transportation cost advantages.

Industrial Users

Casco Inc., Canada's largest industrial corn user with annual sales of some $200 million, submits that there have been a number of significant changes to the economic environment which warrant a second public interest inquiry. Included in these changes is the recent decision of St. Lawrence Starch to cease domestic production which will result in the loss of 230 jobs and a reduction in the domestic market demand for corn of some 127,000 tonnes per annum. The closure of the St. Lawrence plant is said to be the direct result of the processor's inability to remain competitive in the face of the continued existence of the countervailing duty. According to Casco, this situation is contrary to the public interest and to the government's stated support for value-added production in the agri-food industry.

Casco also submits that the signing of the Free Trade Agreement, which will see duties declining on products manufactured in the United States which compete with their products, will lead to a reduction in Casco's competitiveness and market share, resulting in higher costs of production and lower economies of scale. The countervailing duty has added to the cost of doing business in Canada and, coupled with the uncertainty caused by this duty, is perceived as a risk to Casco's competitiveness and a negative factor influencing future investment decisions in their Canadian operations.

Further, it is Casco's position that the benefits accruing to Canadian corn growers from the countervailing duty are small. More specifically, in times of high corn production, the effect of the countervailing duty was minimal and, under drought conditions, when the full effect of the $0.46 per bushel duty was in place, the Canadian corn farmer benefited to only a small degree because of a lack of supply. However, the industrial corn users, compared with their US competitors, paid a huge cost penalty because they had no choice but to import their corn requirements.

The Association of Canadian Distillers, although opposed to the countervailing duty, states that it will not participate in future public interest hearings. The association acknowledges that most of its members are heavily involved in exports, which reduces the impact of the countervailing duty due to the availability of duty drawback. However, they are concerned that certain provisions under the Free Trade Agreement which will take effect in the mid-1990s may dilute the availability of drawback.

Governments and Other Interested Parties

In a joint submission, the Nova Scotia Federation of Agriculture and the Nova Scotia Department of Agriculture and Marketing argue that the competitive position of agriculture in Nova Scotia has eroded with respect to feed grain costs and that this has had serious economic consequences, including the loss of more than a third of the province's hog farming operations since 1981. The Federation and the Department allege that feed cost problems in the region are almost entirely traceable to national programs and policies, especially those pertaining to the Feed Freight Assistance Program whose benefit to the Maritimes has been allowed to erode for some years. Other national policy-induced problems include the regular duties on corn imports, the restrictions on the importation of Argentinean corn and

Brazilian soymeal, as well as the restrictions on importations of wheat, oats and barley and the prohibition on the use of foreign shipping for the movement of Canadian grains. The countervailing duty on corn is but one more problem to be added to this list.

The negative ramifications of the countervailing duty are claimed to be magnified by the fact that, over the past several years, large freight rate increases have occurred in the Maritimes with no corresponding adjustment to assistance rates pursuant to the Feed Freight Assistance Program. Moreover, the federal government's termination of the "At and East" program in the last federal budget has jeopardized the viability of the Halifax grain elevator and has reduced the volume of grain moved by water and has effectively reduced transportation options.

The Federation and the Department submit that the countervailing duty has resulted in a benefit/cost imbalance to the detriment of Nova Scotia livestock producers by having increased feed costs by $2.25 million from August 1988 to October 1989. Most of the increased feed cost was incurred by commercial livestock and poultry producers at an average per farm cost of $2,250. By comparison, the 22,000 grain growers in Ontario gained only $62 per grower through the application of the duty on Nova Scotia purchases of corn.

The New Brunswick Department of Agriculture submits that New Brunswick livestock producers use some 65,000 tonnes of corn annually and, therefore, at the current countervailing rate of $18 per tonne, the producer's feed bill has increased by over $1 million. These costs are especially difficult to bear at a time when transportation costs have been increasing and the effective assistance rates under the Feed Freight Assistance Program have been declining. These subsidies now account for only 21 percent of transportation costs, a decline from the 90 percent level which prevailed in the early 1970s.

The problems associated with the *Canada Shipping Act* (which restricts access to foreign vessels to move grain and which results, it is claimed, in higher transportation costs), the demise of the "At and East" program and its adverse effects on the Saint John terminal activities and the Wheat Board restrictions on wheat and barley imports are all noted as factors reducing the cost competitiveness of New Brunswick livestock producers.

The Government of the United States requests that a second public interest inquiry be undertaken and notes that market conditions have changed substantially since 1987. World corn stocks have fallen significantly over the past two years and are expected to fall even further during the current crop year. The US Government claims that the US Farm Bill target support prices for corn have declined while market prices have increased and that, as a result, deficiency payments have fallen from US$1.11 per bushel in 1986/87 to US$0.36 per bushel in 1988/89. Consequently, at the present countervailing rates, Canadian users of imported corn are paying a premium in excess of any subsidy obtained by US producers through deficiency payments.

The North Dakota Corn Growers Association requests a second public interest inquiry on the grounds that several changes have occurred in the market since 1987. The Association claims that the food industry in Canada requires imports to satisfy its demands and that world corn price increases and the countervailing duty cause undue harm to the Canadian food processing industry. The Association also argues that US subsidies in the form of deficiency payments have been reduced from US$1.09 per bushel in 1987 to US$0.36 per bushel in 1988.

Corn Growers

The Ontario Corn Producers Association, *La Fédération des producteurs de cultures commerciales du Québec*, The Manitoba Corn Growers' Association and Bow Island Corn Marketing Limited (Alberta), the producer organizations which account for virtually all commercial grain corn production in Canada, submit that there has been no material change in circumstances since October 1987, which would necessitate a second comprehensive public interest inquiry.

The corn growers claim that there have been no substantive changes in US Farm Bill subsidies and that the next Farm Bill in 1990 will simply extend the current legislation. While recognizing that US target support prices have declined slightly for the 1989 crop, the corn growers claim that the loan rate has been reduced even further and that the land set aside requirement has also been lowered. Consequently, the net effect of these changes is that subsidies are continuing at levels which would cause serious injury to domestic producers unless offset by the continuing imposition of the countervailing duty.

The corn growers submit that the drought conditions which affected the 1988/89 crop, considered by climatologists to have been the worst since 1934, were abnormal. As well, the potential effects of a drought were recognized in the Tribunal's 1987 report. In the growers' view, the drought situation has now worked its way through the supply line. Production and yield levels in the 1989/90 crop year will see a return to more traditional levels with corn prices falling once again. Domestic corn supply is expected to be adequate to meet market needs in both the current crop year and in the 1990/91 crop year.

The corn growers believe that livestock producers' concerns do not reflect a change in circumstances. Producers who grow their own corn for on-farm feeding and those who purchase corn for supply-managed livestock production, such as dairy and poultry producers, are relatively unaffected by the market price of corn. As well, the impact of corn prices on beef producers is generally marginal due to their low usage of corn, and, where corn is used as feed, the cost of purchased grain is used in calculating tripartite support payments. Similarly, although corn is a common feed ingredient for pork production, the hog/pork industry has been the recipient of major stabilization support payments.

In response to concerns expressed by parties in Atlantic Canada, the growers note that the price of corn in Atlantic Canada is generally equal to the southwestern Ontario price plus shipping costs, minus feed freight assistance subsidies. To the extent that the countervailing duty affects grain corn prices in southwestern Ontario, it will affect corn prices in Atlantic Canada by the same absolute amount. In other words, Atlantic Canada is not bearing any disproportionate costs due to the countervailing duty.

The growers note that there are feed grain producers in Prince Edward Island and Nova Scotia who have also received benefits from the countervailing duty and that the stimulation of grain production, which has been assisted by a number of federal government programs, has been an objective of Atlantic Canada's for many years. Similarly, there has been a major increase in grain corn production in Quebec over the past decade which has decreased the province's dependency on imported corn. Moreover, although corn represents only a small part of the western Canadian feed grain economy, corn acreage has also increased in the Prairie provinces over the past three years.

Finally, in addressing the industrial corn users' concerns, the growers suggest that Casco's profits have improved substantially, given the current high world prices for sugar and the relatively low domestic corn prices. They also note that corn users such as Casco, who export a significant percentage of their products, are eligible for duty drawback corresponding to their exports.

With respect to the claim by St. Lawrence Starch that they are ceasing Canadian production because of the countervailing duty, the growers suggest that there may well be other factors which have led to the decision to close. The growers note that neither St. Lawrence Starch nor the other industrial corn users were prepared to open their books to the Tribunal in 1987.

SECTION III

ANALYSIS OF ISSUES

Introduction

The terms of reference establish a two-step process for this inquiry. In the first step, the Tribunal is directed to gather "new evidence" on whether "there is a reasonable indication of a material change in circumstances from October 1987" (when the last corn public interest inquiry was completed by the CIT). The reference instructs the present Tribunal to proceed to the second step - a consideration of the public interest issues - only if it is convinced that there is evidence of material changes which justify a second inquiry of this kind.

This report deals with the issues relevant to the first step - changes in circumstances. The Notice of Inquiry expressly directed interested parties to submit evidence on changes in circumstances. However, many facts, issues and arguments advanced by the parties pertain to public interest considerations which would be evaluated only if the second stage of this process were to proceed. For the purposes of the present report, these facts, issues and arguments must be put aside.

The key phrase "change in circumstances" has not been defined in the terms of reference. However, when examined in its full context, the Tribunal sees a clear implication that events which were the subject of consideration in the 1987 public interest inquiry are excluded. Events that affect corn markets or that interrelate in a significant way with the corn countervailing duty are clearly changes relevant to this examination. Those changes which are relevant must, pursuant to the terms of reference, be shown to be "material." This is a matter of judgment to be exercised by the Tribunal, based on its analysis of the evidence.

In the present proceedings, the Tribunal has relied on information submitted by the parties as well as on information gathered by its staff. This information has disclosed a number of events which are alleged to constitute changes in circumstances. These events, together with the Tribunal's evaluation of their relevance and materiality for the purposes of this report, are outlined below.

The Drought

As noted earlier in this report, abnormal crop conditions prevailed in 1988/89. Most of the submissions drew attention to this occurrence as being a material change in circumstances since October 1987.

The evidence suggests that the countervailing duty increased domestic corn prices by the full amount (i.e., $0.46 per bushel) during drought-affected quarters in 1988/89 and corn users throughout the country were burdened with corresponding cost increases. However, the report of the 1987 public interest inquiry clearly shows that the consequences of a crop shortfall on domestic corn users was the subject of careful consideration by the CIT. It was in large part to mitigate the potential resulting cost increases that the previous Tribunal recommended a significant reduction in the countervailing duty rate of $1.10 per bushel established by Revenue Canada. The subsequent duty reduction which was implemented by the government served to reduce the hardship that might otherwise have been caused during 1988/89 if the full countervailing duty had been left in place.

Therefore, it cannot be said that the cost increases associated with the drought were unexpected in terms of the 1987 Tribunal inquiry. Moreover, the effects of the drought have now worked their way through the supply line and a return to normal conditions is forecast. In light of the foregoing, the Tribunal does not consider that this constitutes a change in circumstances within the terms of its mandate.

Canada - United States Free Trade Agreement and Other Economic Considerations

The Canada - United States Free Trade Agreement (FTA) signed in 1988 has been cited in several submissions as a significant new circumstance which, combined with the corn countervailing duty, creates a cost-price squeeze on domestic food processors. This creates pressure for companies such as Casco, Canada's major industrial corn user. Available information indicates that Casco's principal products (i.e., its fructose product line) are subject under the FTA to a 10-year (10 percent per year) duty elimination schedule starting in 1989. This year marked the first of the 10 scheduled reductions. The Canadian Customs Tariff (Schedule I) indicates a duty rate of $0.015 per lb. ($0.033 per kg) on imported fructose products. A 10 percent reduction of this duty would amount to $0.0015 per lb., which appears to represent approximately 1 percent or less of the market price for this product line. (More precise figures are unavailable because Casco has declined to provide the Tribunal with product-related information.)

The second FTA tariff reduction is scheduled to take effect in 1990 during a time when the countervailing duty is projected to have little impact. In light of this, it is not evident to the Tribunal that, over the short term, the FTA, in conjunction with the corn countervailing duty, will produce any appreciable cost-price squeeze. It is also worth noting that the reciprocal US duty reductions under the FTA can improve a company's competitive position on its exports and thereby could offset any reduced margins on domestic sales. This consideration applies to Casco given the significant proportion of exports to its total sales (an estimated 40-50 percent).

It may be further observed that the actual direct effects of the FTA to date have had less of an impact on competitive market conditions than have exchange rate fluctuations. Since the 1987 public interest inquiry, the Canadian dollar has appreciated about 15 percent in value against the US dollar. One effect of this appreciation is that the price of Canadian corn has been significantly below what it would otherwise have been - to the benefit of corn purchasers. However, it is recognized that the strengthened Canadian dollar may also have had a restraining effect on prices of domestically manufactured products. It may also have lowered the Canadian dollar value of export sales. The consequences for a company such as Casco are unclear, and will remain so given Casco's decision not to provide information relevant to a fuller understanding of these issues.

Within a wider economic context, the Tribunal has observed that the food processing industry in Canada is undergoing a period of restructuring and adjustment. Another industrial corn user, St. Lawrence Starch, has recently (November 15, 1989) announced plans to terminate Canadian production. This echoed a similar announcement by another food processor in the non-corn segment of this market. As well, a number of other non-corn food processors have reported plans to increase imports of various US food products while cutting back on Canadian production. These events illustrate that the food processing industry, as a whole, is under economic pressure.

Casco has proposed to the Tribunal that the closure of St. Lawrence Starch is attributable to the adverse effects of the countervailing duty on corn and is illustrative of what could happen to them and others if the countervailing duty is not removed. Since St. Lawrence did not agree to participate in this inquiry, it has not been possible for the Tribunal to test the validity of the allegation that the St. Lawrence closure is attributable to the effects of the countervailing duty on corn. However, even if the Tribunal were to accept this claim, it is not evident that the countervailing duty on corn will have the same consequences for others. The present outlook is for declining corn prices and modest price effects as a result of the countervailing duty on corn. This is a positive prospect for corn users. Moreover, the immediate direct effects on corn markets of St. Lawrence's decision to terminate production will be to increase supply (St. Lawrence comprised about 10 percent, i.e., 127,000 tonnes, of industrial corn consumption), depress prices and further weaken potential effects of the countervailing duty on corn - all of which would tend to improve the cost situation of corn users.

In light of the foregoing, the Tribunal fails to see how the FTA or other economic circumstances constitute changes which have materially altered the prospects for corn users in a way which presently calls for a reexamination of the cost-benefit issues through a second public interest inquiry.

US Countervailing Duty on Pork

On September 13, 1989, subsequent to a subsidy investigation and an affirmative finding of injury by the US International Trade Commission, exports of Canadian fresh, chilled or frozen (unprocessed) pork into the United States became subject to a countervailing duty determined at $0.036 per lb. This action by the US authorities is stated in a number of submissions to be a material change in circumstances which has disrupted not only Canadian exports of pork, but has served to depress domestic market prices resulting in lower returns for hog producers.

The US countervailing duty on pork is connected to the Canadian countervailing duty on corn through the latter's effect on hog feed costs. If the countervailing duty on corn increases these feed costs, this triggers increased payments under Canadian hog stabilization programs. Such payments comprise a large portion of the subsidies which, according to the United States, can be countervailed.

To understand the nature of the relationship between the Canadian and US countervailing duties, Agriculture Canada has provided the Tribunal with an analysis of the interactive effects. This analysis indicates that the Canadian countervailing duty on corn had no effect whatsoever on the determination of the present $0.036 per lb. US countervailing duty on pork. The reason for this, advanced by Agriculture Canada, is that the relevant review period used by the United States coincided with a stabilization payment period which preceded the effects of the drought. During this period, the countervailing duty on corn had no effect on the subsidy.

The Agriculture Canada analysis further indicates that, over the assumed next US review period (September 1989 to March 1990), Canadian stabilization payments (i.e., payments made in the 3rd and 4th quarter of 1989) which reflected the effects of the drought would be included. Based on the assumption that the countervailing duty would be having its full effect on corn prices, it would contribute $0.0064 per lb. (5.8 percent) to the estimated $0.11 per lb. duty that could be expected to be levied as a result of the next US review.*

The most recent Agriculture Canada Market Commentary (December 1989) indicates that hog prices have strengthened in recent quarters and are forecast to remain firm through 1990. This firming of prices is a characteristic of, and is consistent with, the end of the current hog production cycle. Higher prices should combine with lower corn feed costs (and minimal countervailing duty effects) over the coming quarters. This should translate into lower stabilization payments and, hence, lower countervailing duties on pork over the relevant quarters.

Given the foregoing, the Tribunal is not convinced that the countervailing duty on corn is or should be expected to become a major cause of, or a contributor to, the difficulties which the domestic hog industry is currently encountering. It follows that this is not a material change in circumstances in the Tribunal's estimation.

Additional Observations

The submissions received from the Atlantic region, by and large, have tended to argue matters which the Tribunal could only consider if it were to proceed with the second phase of this process, namely, a full public interest inquiry. Moreover, it would appear that many of these matters were raised and rejected by the Tribunal during the 1987 public interest inquiry.

The one changed circumstance advanced in these submissions relates to the elimination of the "At and East" transportation program in the last federal budget. This program subsidized the transportation costs of Western grain exports moving by rail from Great Lakes ports to the Halifax and Saint John grain elevators for loading onto vessels.

This program had nothing to do directly with corn. However, it is alleged to be a related issue because, in the absence of a countervailing duty on corn in the Atlantic region, it might become economical to import US corn by water

* The Agriculture Canada analysis goes on to note that the countervailing duty on corn would have a greater effect, in percentage terms, over future quarters if it stayed at its full effect and stabilization payments declined. As noted, the analysis contained in this report indicates that the effect of the countervailing duty will be modest over the coming year.

through the Halifax and Saint John grain elevators. This could then replace lost grain export business resulting from the budget decision to eliminate the federal program and to keep these elevators operating at economic rates. The Tribunal considers the interrelationship between the "At and East" program and the countervailing duty on corn to be too weak to be considered a change in circumstances within the meaning of the terms of reference.

It should be noted that the Atlantic submissions have specifically requested an exemption from the countervailing duty on corn pursuant to section 76 of the *Special Import Measures Act*. An exemption could be made only if the Tribunal reviewed the original finding of material injury. The Tribunal will consider this request following this preliminary examination of the reference from the Minister of State (Finance). Accordingly, the request for exemption will be the subject of a separate decision by the Tribunal.

The Tribunal acknowledges the submissions received from Manitoba interests but notes that, as with the Atlantic region, the arguments advanced related almost entirely to public interest considerations which are not at issue at this stage of the process. The Manitoba submissions do make reference to the effects of the US countervailing duty on pork and this has been dealt with above.

A number of parties have raised questions about the uncertainty created by the existence of the countervailing duty on corn. These questions of uncertainty were described in the original public interest inquiry of 1987. The Tribunal is of the view that this is largely a public interest issue. There are always uncertainties associated with agricultural commodity markets and the rapidly changing global business environment. However, as long as the finding of material injury is in place (it is scheduled to expire in March 1992), some element of uncertainty associated with the countervailing duty on corn will always be present. The Tribunal sees this as the inevitable by-product of the availability and application of domestic trade remedy laws in this situation. Nevertheless, the Tribunal believes that there is today a better understanding of the probable effects of the countervailing duty on corn than there may have been in 1987. This should tend generally to decrease levels of uncertainty about the future effects of the countervailing duty under various crop conditions.

SECTION IV

CONCLUSION

The Tribunal's examination provided an opportunity to review and analyze publicly available data and information supplied by parties on corn prices and volumes since the imposition of the countervailing duty on corn, as well as to obtain advice on corn market developments from Agriculture Canada and an independent expert. This allowed an excellent picture of the effect of the countervailing duty on corn markets to emerge, which assisted the Tribunal in understanding the consequences of various circumstances which have occurred since the last public interest inquiry in 1987. These results, which were presented in detail earlier in the report, indicated that, except for 1988/89 (the drought year), the effects of the countervailing duty were modest (1986/87) or negligible (1987/88). Current crop conditions and present medium-term forecasts indicate that these effects should continue to be modest or negligible. As a result, in current forecast market conditions, the countervailing duty will have little or no adverse effect on users and consumers.

When the CIT conducted the 1987 inquiry, it made allowance for the possibility that short supply conditions might emerge during the life of the finding. The Minister took account of these recommendations to establish a revised level of countervailing duty at $0.46 per bushel. If, contrary to current forecasts, a short supply condition were to recur in the near term, it may warrant a reconsideration of the appropriate level of the countervailing duty.

Against this background, the Tribunal has also examined the arguments and evidence pertaining to changes in circumstances. It has concluded that, while the countervailing duty cost-benefit balance is clearly a delicate one, events since the public interest inquiry of 1987 have not been significant enough to alter that balance in a material way for the foreseeable future.

Presiding Member:	Robert J. Bertrand, Q.C.
Member:	Sidney A. Fraleigh
Member:	Kathleen Macmillan

Ottawa, Canada
December 29, 1989

APPENDICES

APPENDIX I

World Corn Supply and Disposition Table
(million tonnes)

	1982/83	1983/84	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90(e)
EXPORTS								
Argentina	6.5	5.9	7.1	7.4	4.0	3.7	2.5	3.7
South Africa	2.3	0.2	0.2	1.5	2.6	0.8	2.0	4.2
Thailand	2.1	3.1	3.2	3.8	2.6	0.8	1.4	0.7
China	0.1	0.3	5.2	6.4	3.8	4.1	4.0	4.0
Canada	**0.5**	**0.4**	**0.6**	**0.7**	**0.1**	**0.4**	**0.0**	**0.1**
Others	4.4	3.9	3.6	3.2	4.0	2.6	3.4	3.3
TOTAL NON-US	15.8	13.8	19.9	23.0	17.0	12.4	13.2	16.0
US	47.5	47.3	46.7	31.5	39.4	44.5	51.4	51.0
WORLD TOTAL	63.3	61.1	66.6	54.5	56.4	56.9	64.6	67.0
IMPORTS								
Mexico	4.0	2.5	1.7	1.7	3.4	3.2	3.2	3.3
EC-12	11.9	10.2	9.0	4.8	2.8	3.4	2.7	3.0
USSR	6.5	9.5	20.3	10.3	7.6	8.1	18.7	16.5
Japan	14.5	14.5	14.0	14.6	16.1	16.7	16.0	16.6
Eastern Europe	3.3	1.9	1.8	2.2	1.7	2.1	2.6	2.0
China	2.4	0.1	0.1	0.4	1.6	0.3	0.0	0.2
Taiwan	3.2	3.0	3.1	3.1	3.6	4.0	3.0	4.2
Korea Rep.	3.9	3.4	3.0	3.6	4.6	5.1	6.2	6.7
Canada	**0.8**	**0.2**	**0.6**	**0.4**	**0.6**	**0.2**	**1.0**	**0.4**
Others	12.8	15.8	13.0	13.4	14.6	13.9	10.3	14.2
WORLD TOTAL	63.3	61.1	66.6	54.5	56.4	56.9	64.6	67.0
PRODUCTION								
Brazil	19.5	21.0	22.0	21.0	26.5	24.7	26.0	25.5
Mexico	7.0	9.3	9.9	10.5	10.0	9.9	10.1	10.3
Argentina	9.0	9.5	11.9	12.4	9.3	9.0	4.7	7.5
South Africa	4.1	4.4	8.1	8.1	7.2	7.1	11.7	8.0
Thailand	3.5	4.0	4.4	5.4	4.3	2.7	4.2	3.8
EC-12	22.6	21.8	23.1	25.7	25.2	25.9	28.6	25.4
USSR	14.7	13.3	13.6	14.4	12.5	14.8	16.0	16.5
Eastern Europe	36.5	33.2	35.4	30.6	39.2	30.3	27.3	34.6
China	60.3	68.2	73.4	63.8	70.9	79.2	77.4	77.0
Canada	**6.5**	**5.9**	**6.8**	**7.0**	**5.9**	**7.0**	**5.4**	**6.4**
Others	47.2	50.9	55.2	55.4	57.5	57.1	62.7	62.4
TOTAL NON-US	230.8	241.5	263.9	254.3	268.4	267.7	274.1	277.3
US	209.2	106.0	194.9	225.8	209.6	179.6	125.0	189.2
WORLD TOTAL	439.9	347.5	458.8	479.8	477.9	447.3	399.1	466.5
UTILIZATION								
EEC	37.2	34.9	31.2	29.5	28.9	27.4	29.5	29.1
USSR	22.1	22.0	32.9	24.8	19.6	22.1	35.0	33.0
Japan	14.2	14.6	14.2	14.4	15.5	16.6	16.1	16.6
China	62.8	64.4	66.3	65.7	73.2	74.4	74.0	74.5
Canada	**6.4**	**6.3**	**6.4**	**6.7**	**6.6**	**6.8**	**6.6**	**6.6**
Others	139.4	146.6	152.6	150.7	166.7	163.2	165.9	170.4
TOTAL NON-US	282.2	288.9	303.6	291.7	310.5	310.5	327.1	330.3
US	137.6	121.7	131.3	133.5	150.0	151.6	131.6	139.7
WORLD TOTAL	419.7	410.6	435.0	425.2	460.5	462.1	458.7	470.0
END STOCKS								
Canada	**1.6**	**1.0**	**1.4**	**1.4**	**1.2**	**1.2**	**1.0**	**1.2**
Others	15.0	38.4	46.0	39.8	36.0	37.0	36.8	34.4
TOTAL NON-US	16.6	39.4	47.4	41.2	37.2	38.2	37.8	35.6
US	89.5	25.6	41.9	102.6	124.0	108.2	49.0	47.8
WORLD TOTAL	106.1	65.0	89.2	143.8	161.2	146.4	86.9	83.4

Source: World Grain Situation and Outlook, USDA.

(e) Estimate as of October 12, 1989

Amounts may not total due to rounding.

APPENDIX II

Summary of Corn Subsidy - 1986 to 1989

Subsidy Program	1986/87 Final Determination	1986/87 Designated Officer Determination	1986/87 Final Data	1987/88 Final Data	1988/89 Final Data	1989/90 Preliminary Estimate
Great Plains Conservation Program	$0.000025	$0.000025	info not available	info not available	info not available	info not available
Storage Facilities & Equipment Loans	$0.000120	$0.000159	info not available	info not available	info not available	info not available
Feed Grain Program						
Loss on CCC* Corn Inventory	$0.0770	$0.0770	$0.1943	$0.3831	$0.1043	$0.0753
Deficiency Payments	$0.7213	$0.7381	$0.7369	$0.8347	$0.4505	$0.4964
Diversion Payments	$0.0165	$0.0161	$0.0161	$0.2059	$0.1166	program not available in 89
Reserve Storage Program	$0.0337	$0.0337	$0.0558	$0.0140	$0.0099	$0.0205
Subsidy Amount In US $ Per Bushel	$0.8486	$0.8651	$1.0031	$1.4377	$0.6813	$0.5922
Subsidy Amount in CAN $ Per Bushel Assuming Exch. 1.20	$1.0183	$1.0381	$1.2037	$1.7252	$0.8176	$0.7106

Source: Revenue Canada, December 1989.

* Commercial Credit Corporation.

APPENDIX III

Effect of Countervailing Duty on Corn

Submitted by Casco Inc.

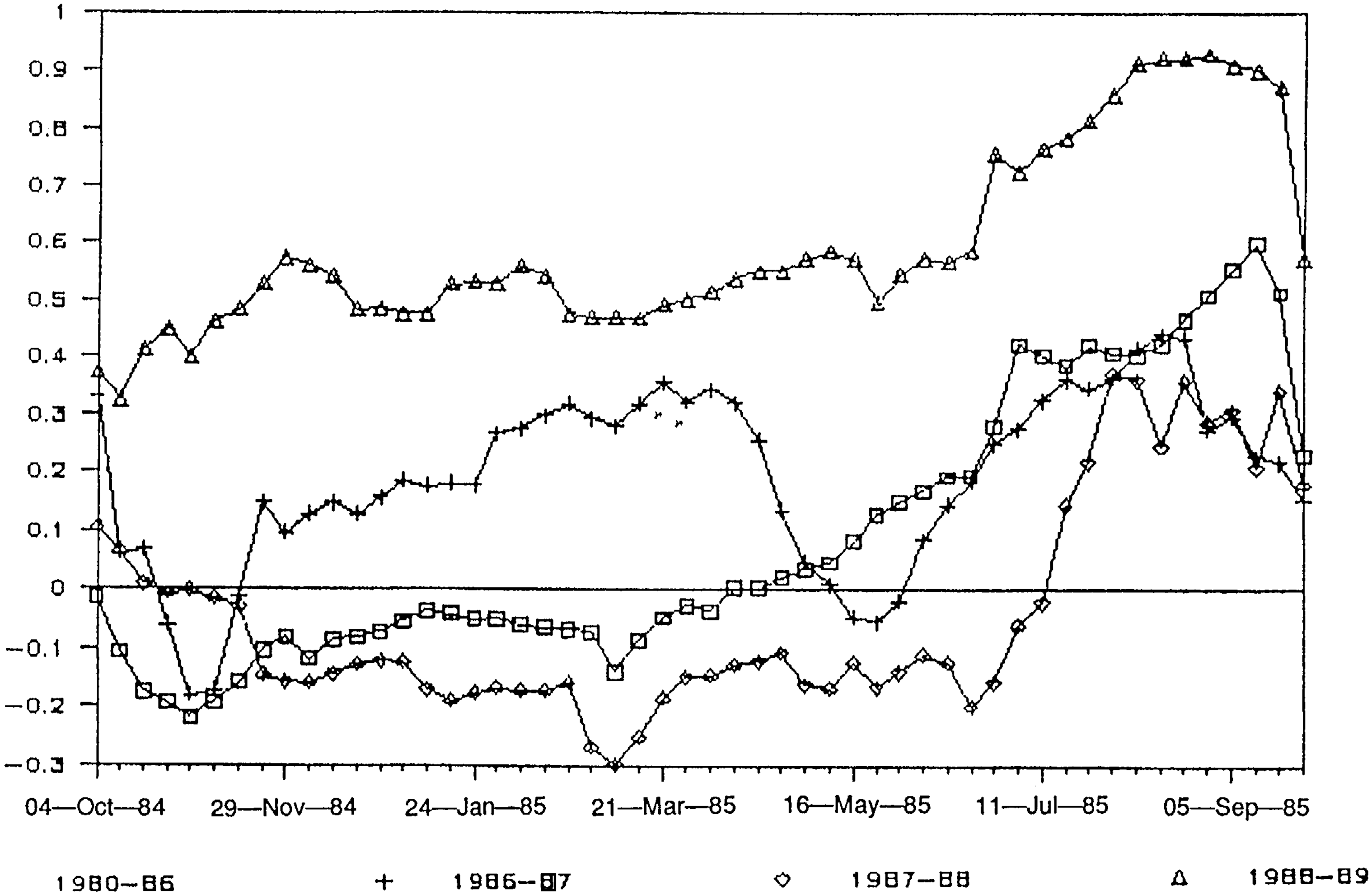
The following graph compares the average weekly Chatham-Chicago basis in each of the three countervailing duty crop years following the average basis from 1980 to 1986. Chatham track or rail prices are used and the crop year is October 1 to September 30. The calculated difference between the indicated year and the historical average as submitted by Casco is:

Crop Year	Calculated Difference $ per bushel
1986/87	0.10
1987/88	-0.13
1988/89	0.51

It is understood that the difference is assumed to represent the maximum average effect of the countervailing duty in the given year. A negative value is equivalent to a nil effect.

CHATHAM RAIL SELLING PRICES

RELATIVE TO CHICAGO FUTURES IN CDN FUND



Source: Casco Inc.

APPENDIX III

APPENDIX IV

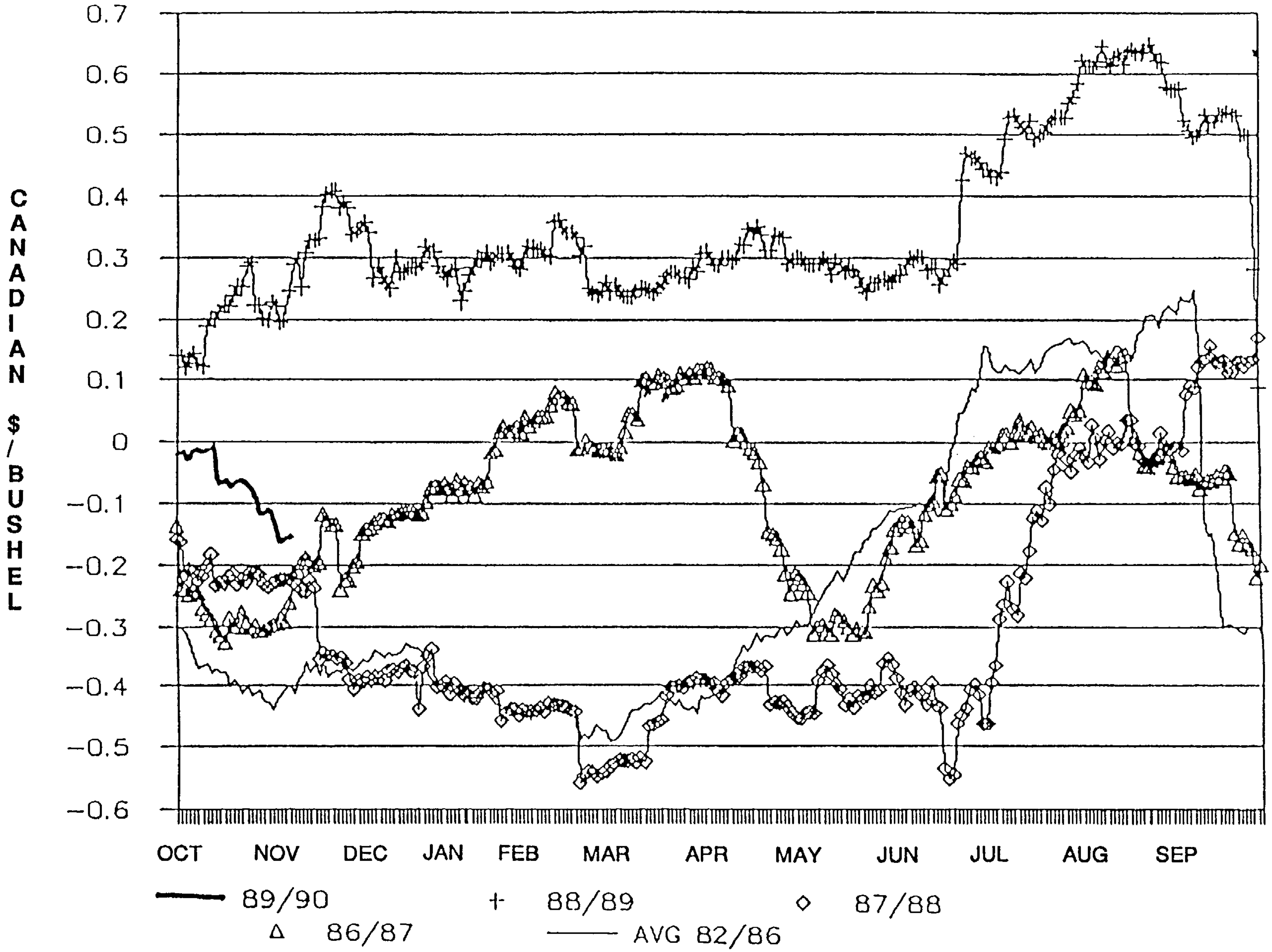
Submitted by Corn Producer Associations

Effect of Countervailing Duty on Corn

The following graph compares the average weekly Chatham-Chicago basis for 1986/87 to date to the average basis from 1982 to 1986. Chatham board prices are used (which are lower than track prices and hence indicate smaller positive spreads and larger negative spreads than Casco's) and the crop year is October 1 to September 30. No figures on the average difference in spreads were submitted by the corn growers. However, the large spreads in 1988/89 and the negligible to negative spreads in 1987/88 are readily apparent. These would correspond to large and negligible countervailing duty effects in 1988/89 and 1987/88 respectively. The 1986/87 line shows a mixed pattern falling somewhere between the other two, suggesting a partial countervailing duty effect.

ADJUSTED BOARD BASIS

GRAIN CORN, CHATHAM



Source: Ontario Corn Producers' Association

APPENDIX IV

APPENDIX V

FARM Model Estimate of the Effect of the Countervailing Duty on Corn

Agriculture Canada

FARM (Food and Agricultural Regional Model) is an econometric model used by Agriculture Canada to assess and forecast developments in agricultural markets. The model was used to perform a preliminary analysis of the impact of the countervailing duty on Chatham corn prices. Corn prices were first simulated assuming no countervailing duty in place. The simulated prices were then compared to actual Chatham corn prices from the third quarter of 1986 to the fourth quarter of 1988. When actual corn prices were greater than those estimated by the model, giving a positive difference, it is reasonable to assume that the countervailing duty was responsible for the increase. A negative difference, implying that actual corn prices were less than estimated prices, is taken to represent a nil effect of the countervailing duty.

Results from the above methodology are as follows:

Year	Quarter	Difference between Actual and Estimated Corn Prices	
		$ per tonne	$ per bushel
1986	3	8.08	0.21
	4	7.40	0.19
1987	1	6.83	0.17
	2	7.78	0.20
	3	-0.23	-0.01
	4	-0.24	-0.01
1988	1	-0.25	-0.01
	2	-0.28	-0.01
	3	16.57	0.42
	4	15.63	0.40

The explanation advanced by Agriculture Canada for the apparent effect in the third quarter of 1986 is that corn demand may have increased in anticipation of the imposition of the countervailing duty. The results show a modest effect of the countervailing duty over the last quarter of 1986 and the first two quarters of 1987, no impact for the following year and a large average impact in the last two quarters of 1988.

APPENDIX VI

Effect of the Countervailing Duty on Corn

Summary of Study Commissioned by the Tribunal

The commissioned work was carried out jointly by the Tribunal's independent expert, Professor Larry Martin, University of Guelph, and the National Grains Bureau of Agriculture Canada.

The methodology used in the study is based on the assumption that the price of corn in Ontario must be set at a level that will make it competitive with US corn imported into Canada from Toledo, Ohio. The methodology takes the f.o.b. price of corn at Toledo and adds the cost of moving this US corn into Montreal (a major market entry point), including the normal import tariff. This gives an expected value for the price of US corn in Montreal. The expected Chatham price should be competitive with this price after deducting Montreal-Chatham transportation costs. In other words, the price of corn in Chatham should be equal to the price of corn at Toledo (in Canadian funds) plus transfer and tariff charges to Montreal, minus the cost of moving corn from Chatham to Montreal.

The study calculated expected Chatham prices using the above methodology for each month of crop years 1985/86 to 1988/89. This calculated price was then compared to the actual quoted Chatham price for the corresponding month. The spread between the actual and calculated price is assumed, in the circumstances indicated below, to reflect the maximum average effect of the countervailing duty. When the countervailing duty is effective, the actual price should be higher than the calculated price, giving a positive figure. When the figure is negative, the countervailing duty is not effective because Eastern Canada is in an export pricing mode.

The spreads generated by the above methodology are as follows:

	Actual Average Price	Calculated Average Price	Difference	
	$ per tonne	$ per tonne	$ per tonne	$ per bushel
1985/86	118.47	137.27	-18.80	-0.48
1986/87	97.56	90.16	7.40	0.19
1987/88	111.11	116.82	-5.71	-0.15
1988/89	148.11	129.70	18.41	0.47

The negative figures in 1985/86 and 1987/88 correspond to large crops and export pricing conditions. In such market conditions, there should be no countervailing effect and this is confirmed by the analysis. The spread shown for 1988/89 indicates the maximum countervailing effect. Overall, the pattern of effects resulting from this study corroborates the pattern of effects suggested by each of the approaches used by parties.

APPENDIX VII

List of Submissions

Association canadienne des industries de l'alimentation animale, section Québec; Association professionnelle des meuniers du Québec; Association des centres de grains régionaux du Québec; et Association des négociants en céréales du Québec

Association of Canadian Distillers

Atlantic Grains Council

Canadian Feed Industry Association, Atlantic Division

Canadian Feed Industry Association, Manitoba Division

Canadian Pork Council

Casco Inc.

Government of the United States of America

Manitoba Pork

New Brunswick Department of Agriculture

North Dakota Corn Growers Association

Nova Scotia Federation of Agriculture and Nova Scotia Department of Agriculture and Marketing

Ontario Corn Producers' Association; *La Fédération des producteurs de cultures commerciales du Québec*; Manitoba Corn Growers' Association; and Bow Island Corn Marketing Limited (Alberta)

Shaw Milling Ltd.