



Ottawa, Friday, March 16, 1990

Review No.: RR-89-003

IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the report of the Anti-dumping Tribunal dated August 7, 1984, respecting

CANNED HAM UNDER 1.5 KILOGRAMS PER CAN, ORIGINATING IN OR EXPORTED FROM DENMARK AND THE NETHERLANDS; AND CANNED PORK-BASED LUNCHEON MEAT CONTAINING MORE THAN 20 PERCENT BY WEIGHT OF PORK, IN RESPECT OF WHICH A SUBSIDY HAS BEEN PAID DIRECTLY OR INDIRECTLY BY THE EUROPEAN ECONOMIC COMMUNITY

ORDER

The Canadian International Trade Tribunal, under the provisions of section 76 of the *Special Import Measures Act*, has conducted a review of the report dated August 7, 1984, made by the Anti-dumping Tribunal, on which were based Orders in Council P.C. 1984-2791 and P.C. 1984-2792, continued and deemed to have been continued by section 115 of the *Customs Tariff* [R.S., c. 41 (3rd Supp.)] as findings made, effective December 1, 1984, pursuant to section 43 of the *Special Import Measures Act*.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the above-mentioned findings without amendment.

Sidney A. Fraleigh

Sidney A. Fraleigh
Presiding Member

John C. Coleman

John C. Coleman
Member

Arthur B. Trudeau

Arthur B. Trudeau
Member

Robert J. Martin

Robert J. Martin
Secretary



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FROM DENMARK AND THE NETHERLANDS; AND CANNED
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BY WEIGHT OF PORK, IN RESPECT OF WHICH A SUBSIDY HAS BEEN
PAID DIRECTLY OR INDIRECTLY BY THE EUROPEAN ECONOMIC COMMUNITY**

Special Import Measures Act - Whether to rescind or continue the Anti-dumping Tribunal's findings relating to the above-mentioned goods.

DECISION: The Canadian International Trade Tribunal continues the above-mentioned findings. The industry remains vulnerable to the resumption of uncountervailed subsidized imports given the price sensitivity of the product and the current high level of export subsidies which would provide importers with a substantial price advantage, leading to a significant reduction in sales volume, price erosion and decline in profitability for both domestic producers.

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	December 11, 1989
Date of Finding & Reasons:	March 16, 1990
Panel Members:	Sidney A. Fraleigh, Presiding Member John C. Coleman, Member Arthur B. Trudeau, Member
Director of Research:	Réal Roy
General Counsel:	Louise Sabourin-Hébert, Q.C.
Research Officer:	Richard Cossette
Statistical Officers:	Margaret Saumweber, Robert Larose
Registration and Distribution Clerk:	Molly C. Hay

Participants:

G.P. MacPherson,
Suzette C. Cousineau
for the Canadian Meat Council,
Canada Packers Inc.
and Gainers Inc.
(Complainants)

Witnesses:

Harvey J. Holinski, Vice-President
Consumer Processed Foods,
Canada Packers Inc.

Randy R. Richards, Manager
Grocery Products Division,
Gainers Inc.

Serge Kalashnik, Controller
Consumer Processed Foods,
Canada Packers Inc.

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CANNED HAM UNDER 1.5 KILOGRAMS PER CAN, ORIGINATING IN OR EXPORTED FROM DENMARK AND THE NETHERLANDS; AND CANNED PORK-BASED LUNCHEON MEAT CONTAINING MORE THAN 20 PERCENT BY WEIGHT OF PORK, IN RESPECT OF WHICH A SUBSIDY HAS BEEN PAID DIRECTLY OR INDIRECTLY BY THE EUROPEAN ECONOMIC COMMUNITY

TRIBUNAL: SIDNEY A. FRALEIGH, Presiding Member
JOHN C. COLEMAN, Member
ARTHUR B. TRUDEAU, Member

STATEMENT OF REASONS

SUMMARY

This is a review under section 76 of the *Special Import Measures Act* (SIMA) by the Canadian International Trade Tribunal (the Tribunal) of the Anti-dumping Tribunal's (the ADT) report dated August 7, 1984, relating to the subject canned ham and canned luncheon meat. In that report, the ADT found that the export subsidies for the subject imports, which were substantial, permitted the price gap between domestic and import prices to become sufficiently large so as to offset consumer loyalty for the domestic product. As a result, subsidized imports captured a significant share of the market, affecting the domestic producers' sales of both premium and second-line products, and preventing the industry from recovering from the unsatisfactory profitability levels sustained in 1982 and 1983. If countervailing measures were not taken, it was concluded that the industry's performance would likely deteriorate further.

Turning to this review, the evidence shows that imports of both canned ham and canned luncheon meat have decreased substantially in recent years and that Canadian producers have recaptured market share and profitability lost in the early 1980s as a result of the subsidized imports. However, the domestic industry remains highly vulnerable to material injury from uncountervailed subsidized imports, if the finding is rescinded, given the price sensitivity of the products and the current high level of export subsidies. The magnitude of the subsidies would provide the importers with a substantial price advantage in the marketplace in the event of a rescission and would, undoubtedly, lead to a significant reduction in sales volume, price erosion

and decline in profitability for both domestic producers. For all these reasons, the Tribunal concludes that the findings relating to the subject canned ham and canned luncheon meat should be continued, without amendment.

BACKGROUND

This is a review under section 76 of SIMA of a report dated August 7, 1984, made by the ADT, respecting canned ham under 1.5 kg per can, originating in or exported from Denmark and the Netherlands; and canned pork-based luncheon meat containing more than 20 percent by weight of pork, in respect of which a subsidy has been paid directly or indirectly by the European Economic Community (the EEC) in Inquiry No. GIC-1-84, in which the ADT found that the importation of the subsidized subject goods had caused, was causing and was likely to cause material injury to the production in Canada of goods of that class or kind.

After receiving the ADT report, the Governor in Council issued on August 8, 1984, two Orders in Council, P.C. 1984-2791 and P.C. 1984-2792 pursuant to subsection 7(1) of the *Customs Tariff*. These orders imposed an additional duty on the subject goods equal to the amount of subsidy.

SIMA was amended by section 115 of the *Customs Tariff* on January 1, 1988, to provide that Governor in Council orders, made pursuant to subsection 7(1) of the *Customs Tariff*, be deemed to have been made under section 43 and, consequently, subject to review under section 76 of SIMA.

Pursuant to section 76 of SIMA, the Tribunal initiated a review of the report and issued a Notice of Review on September 29, 1989. This notice was forwarded to all known interested parties and was published in Part I of the Canada Gazette of October 7, 1989.

As part of its review, the Tribunal sent detailed questionnaires to Canadian manufacturers and selected importers of the subject goods. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports relative to the review. In addition, the record of this review consists of all relevant documents, including the original findings, the Notice of Review, and public and confidential sections of the replies to questionnaires. All public exhibits were made available to interested parties, and protected exhibits, to independent counsel only.

Public and *in camera* sessions were held in Ottawa, Ontario, on December 11, 1989.

The Canadian Meat Council, a trade association, was represented by counsel at the hearing, submitted evidence and made argument in support of continuing the findings.

Canada Packers Inc.(Canada Packers), a manufacturer, was represented by counsel at the hearing, submitted evidence and made argument in support of continuing the findings.

Gainers Inc. (Gainers), another manufacturer of the subject goods, was also represented by counsel at the hearing, submitted evidence and also made argument in support of continuing the findings.

No importers of the subject goods participated in the proceedings.

THE PRODUCT

The products under consideration in this review are described in the ADT findings as:

- (a) canned ham under 1.5 kg per can, originating in or exported from Denmark and the Netherlands; and
- (b) canned pork-based luncheon meat containing more than 20 percent by weight of pork, in respect of which a subsidy has been paid directly or indirectly by the EEC.

Canned ham is made from the hind leg of the pig. It is pre-cooked, shelf-stable and is a convenience item which has been purchased by consumers for many years. Ham in can sizes under 1.5 kg (about 3.3 lb.) is sold to the retail trade in three sizes: 425 g (15 oz.), 454 g (1 lb.) and 680 g (1.5 lb.) cans. Ham in can sizes of 1.5 kg and over is sold to the food service industry and is not subject to this review.

Canned pork-based luncheon meat, which is defined with precision in the *Food and Drug Regulations*, is used primarily as a sandwich filler and is sold in oblong 340 g (12 oz.) cans to retail stores. Demand is seasonal in nature and the product is sold in lesser volumes between the months of June and September.

The domestic producers sell canned ham and luncheon meat to retailers under their national brands. Promotions and discounts are offered to retailers in order to achieve maximum sales. The producers may also sell the products under their house brands at a price below that of premium brands. The difference in price reflects different formulations and lack of advertising, which the national brands require on an ongoing basis.

THE DOMESTIC INDUSTRY

The Canadian Meat Council, on behalf of its members, which include Canada Packers and Gainers, was the complainant in the original inquiry. Burns Meats Ltd. (Burns) and Montalban Enterprises Ltd. (Montalban) supported the complaint. Since the findings, there have been major changes in the composition of the industry: Montalban has not produced for a number of years and Canada Packers acquired the Burns canned meat product lines and production equipment in 1984. Another producer of canned ham, F.W. Fearman Company, Limited, ceased production in 1987. Finally, Gainers, a private company, was recently purchased by the Alberta government.

Canada Packers, the largest processed meat producer in Canada, is engaged in three major industry segments which have been identified as meat products (64 percent of sales which includes the subject goods), processed foods (16 percent of sales) and non-food products (20 percent of sales). The company also conducts operations outside Canada, predominantly in meat products.

Canada Packers' pork operations involve the slaughtering and processing of hogs into pork cuts, which are sold as fresh or frozen pork in domestic and export markets, or used as a raw material for processed meat operations. Processed meat operations involve further

processing of pork and other raw materials into products such as bacon, ham and wieners. All canned meats are produced at one facility located in Toronto. Canned meats comprise canned ham, canned picnic, luncheon meat and flaked products. The company continues to market canned ham through its own sales force to the retail trade under the premium brands "Maple Leaf" and "Maple Leaf Lean and Tender." Its canned luncheon meat premium brands are "Klik" and "Kam." Brands previously sold by Burns are now produced and marketed by Canada Packers. These include canned ham sold under the brand name "Pride of Canada" and luncheon meat sold under the brand names "Spork" and "Roy-All." These latter brands are considered second-line luncheon meats, and generally sell on price alone.

Gainers, a private corporation, was owned solely by Pocklington Foods Inc. until 1987. The company was sold to the Alberta government in October 1989.

Despite these ownership changes, Gainers continues to manufacture the subject goods in Edmonton. Canned ham produced by Gainers is marketed under the trade name "Swift Premium." The pork-based luncheon meat brands produced and sold by Gainers are "Co-op," "Prem" and "Holiday." Gainers distributes its products through food brokers.

Canada Packers and Gainers currently account for all Canadian production of the subject goods.

SUMMARY OF THE 1984 REPORT

The Canadian Meat Council and four major producers of the subject goods, Burns, Canada Packers, Gainers and Montalban, submitted that imports of canned ham, canned picnic and canned pork-based luncheon meat from Denmark and the Netherlands could not have achieved their market penetration without the EEC subsidy. These losses of market share were reflected in a reduction of sales and loss of production, employment, gross margins and net profits.

In its consideration of material injury, the ADT examined the impact of subsidized imports on the production in Canada of each of the subject products. The ADT found no material injury with respect to subsidized imports of canned picnic.

Canned Ham

The ADT noted that the market had been declining by about 5 percent annually for the 10 years preceding the finding. These declines in demand and the fluctuations which occurred during the period were a reflection of the product's status as a convenience food that competed in a much wider sandwich filler market, as well as in a food consumption market which was experiencing shifts in consumer tastes.

In 1981, the domestic industry dominated the market with a 95-percent share of a market that had increased by 2 percent over 1980. During 1982, raw material prices climbed steeply which affected the price of domestic canned ham. These price increases led to a decline of 23 percent in the market. These unfavorable results were not caused by imports, but by the price increases in Canadian canned ham which widened the price gap between the domestic product and imported Danish and Dutch canned ham.

In 1983, the price gap widened and consumer loyalty for the domestic product was no longer sufficient to offset this gap. In a market that recovered by 29 percent from 1982, the Canadian industry failed to share in the market growth and, indeed, suffered a sales volume loss of one-third of a million pounds. Almost the entire growth in market volume was taken by Dutch imports. Although Danish imports took a minor share of the market, imports from this source experienced a strong gain in volume over the previous year.

The ADT concluded that the subsidy had permitted the price gap to become sufficiently large so as to offset consumer loyalty for the domestic product. Had the subsidy not been present in 1983, the price gap would have returned to a level where the domestic producers had demonstrated that they could retain their dominant position in the market.

The ADT found that, in 1983, the domestic industry was prevented from recovering from the unsatisfactory profitability sustained during 1982. As well, this deterioration in profitability continued into 1984. If countervailing measures were not taken, it was concluded that the Canadian industry's performance would likely deteriorate further.

On the basis of the evidence, the ADT found that the importation of the subsidized subject canned ham had caused, was causing and was likely to cause material injury.

Canned Pork-based Luncheon Meat

This market had declined by an average of about five percent annually over the 10 years preceding the finding. This decline was attributed to the growing influence of fast food outlets and the widening of the range of substitute products, including deli-type foods.

At the beginning of the 1980s, the Canadian producers were a dominant force in the market with a share of 97 percent. During 1982, with the sharp increase in pigmeat prices, the price gap between the domestic product and Danish and Dutch luncheon meat widened. The gap resulted in imports from these sources gaining four points of market share each and reduced the domestic producers share to just under 90 percent.

The ADT noted that the industry's sales of premium luncheon meat were hardly affected by imports, while most of the market share decline was borne by second-line luncheon meat. Although the industry lost market share, it increased its sales revenue and gross margins by passing on its cost increases.

In 1983, average Canadian prices rose slightly, while average import prices fell and the price gap widened further so that the consumer loyalty buffer, that had protected the industry's premium brand products in 1982, was no longer sufficient to counter the price gap. It appeared to the ADT that the industry had lost more premium volume than second-line volume. In total, the industry lost 13 points of market share to imports from Denmark and the Netherlands. The superior performance of Dutch imports compared to Danish imports was due to lower prices. Danish imports were, nevertheless, priced lower than Canadian premium and second-line luncheon meat.

The ADT concluded that the domestic producers were injured materially by subsidized imports from the Netherlands and Denmark in 1983. Furthermore, if the price gap were not narrowed by the application of countervailing duties, the industry's sales of premium brand luncheon meat, which were of major importance, would continue to deteriorate, and sales by the industry of second-line products would disappear from the market.

Accordingly, the ADT found that the importation of the subsidized subject canned luncheon meat had caused, was causing and was likely to cause material injury.

THE INDUSTRY'S POSITION

Turning to the current review, counsel acting on behalf of The Canadian Meat Council, Canada Packers and Gainers argued that the stage was set for a rerun of the period in which the ADT found material injury caused by the subsidized imports of canned ham and canned luncheon meat. It was submitted that all of the elements were present for a swift return to sourcing from subsidized imports, beginning with mass merchandisers such as K-Mart and Zellers, continuing with private labels sold by the grocery trade and eventually affecting sales of name brands to the grocery trade.

The circumstances which exist today, the producers argued, could well give rise to what happened in the period prior to the subsidized imports. While profitability is good, it is due not only to the findings, but to fortuitous circumstances, mainly cyclical raw material prices (pork), which have been low in the last two years. These prices are trending up, and this, it was argued, will impact directly on the producers' margins for the subject goods. Similarly, the Canadian dollar has strengthened against the European currencies, making imports from the subject countries relatively cheaper in price.

Counsel also argued that there exists a propensity on the part of importers to switch to the lowest cost source. Importers now sourcing from such low-cost countries as Romania could easily switch back to sourcing from the subject countries should the countervailing duties be removed. Furthermore, the brand names for the imported products are well-established in the marketplace. Consumers, the industry argued, would readily embrace these imported products should they reappear on the shelf in quantity.

Finally, counsel argued that the value of the export subsidies for Denmark and the Netherlands was cut to very low levels in the years following the findings. However, since 1986, the subsidy rates have risen significantly, to the point where these subsidies, expressed in Canadian funds, are now higher than at any time since the findings.

For all these reasons, counsel argued that the continuation of the findings was appropriate and was necessary to prevent an imminent recurrence of material injury to domestic producers.

CONSIDERATION OF THE EVIDENCE

Canned Ham

The apparent Canadian market for the subject canned ham declined from seven million pounds in 1980 to about six million pounds in 1984 (the year of the finding). Since the finding, however, the market has remained fairly stable at roughly six million pounds.

The domestic producers' share of the canned ham market had declined sharply in the two-year period preceding the 1984 finding. However, since the finding, the industry has seen its market share increase by some 17 points, in effect, recovering most of the losses that it sustained to the subsidized imports in 1983 and 1984. The share held by the imports from the subject countries dropped sharply in the year following the finding, remained low in 1986, increased temporarily in 1987, but has been declining since that time. Such imports currently constitute a very minor share of the market. Imports from non-subject countries, notably Romania and Yugoslavia, have replaced Denmark and the Netherlands in recent years as the largest import sources of canned ham.

Pricing data filed by the domestic producers show that there have been very few price increases implemented in the last few years. Since 1985, Canada Packers has increased list prices for canned ham only once, while Gainers has implemented two price increases. These price increases were modest and were somewhat below the rise in the Consumer Price Index. Current list prices for the two domestic producers are about the same.

Canada Packers was profitable on sales of canned ham in fiscal 1986, but suffered losses in the next fiscal year. It was again profitable in fiscal 1988, and has seen successive improvements in the level of net profit before taxes over the last two fiscal periods. In the case of Gainers, net profits before taxes expressed as a percentage of net sales showed a pattern of improvement over the 1986-88 period. However, the net profit rate dropped somewhat in fiscal 1989, although sales of canned ham were still profitable.

Enforcement data received from Revenue Canada showed that the basic EEC export subsidy on shipments of canned ham from the subject countries dropped to its lowest point during May 1985, but has increased dramatically since that time. The current actual export subsidy levels for Denmark and Netherlands, expressed in Canadian dollars, are higher than those which prevailed at the time of the finding.

Canned Luncheon Meat

The apparent Canadian market for the subject canned luncheon meat declined by nearly six million pounds in the period 1980-84. The market continued to decline in the two years following the finding, increased by 15 percent in 1987, but has been declining slightly since 1987. In 1988, it stood at some 13 million pounds, up slightly from the year of the finding (12.3 million pounds), but down considerably from 1980, when it stood at 18.2 million pounds.

The combined share held by the domestic producers, no doubt assisted by the imposition of countervailing duties, has increased by 20 points since the finding. The significant share currently held by the domestic producers has thus returned to the levels enjoyed in the early 1980s. Imports from the subject countries, on the other hand, have been decreasing in both absolute volume and in terms of market share since the finding, particularly over the last 18 months. Imports from non-subject countries have been virtually absent from the market since the finding.

Canada Packers has increased its list prices for canned luncheon meat only once since May 1985. List prices for Gainers, on the other hand, were either increased marginally (as in the case of "Prem") or declined somewhat (as in the case of "Holiday"). With regard to intra-industry comparative pricing, it appeared that, on a list price basis, Gainers had lower prices than Canada Packers over most of the period, although current list prices are comparable for the 454 g (1 lb.) and 680 g (1.5 lb.) cans.

Export subsidy levels for canned luncheon meat closely parallel the trend described for canned ham, i.e., declining to very low levels in the years following the ADT finding, bottoming in May 1985, and increasing substantially since that time. The current subsidy amounts for both subject countries, expressed in Canadian dollars, are higher than those which prevailed at the time of the finding.

CONSIDERATION OF MATERIAL INJURY

The Tribunal's task in this review is to assess whether the industry is vulnerable to the resumption of unrestrained subsidized imports and whether there exists a likelihood of continued subsidization from the subject countries. Although there are many common features between the two product categories, the Tribunal considers it appropriate to review the evidence presented on a separate basis for each product category.

Canned Ham

Since the 1984 finding, the producers have collectively increased their production and sales, recaptured essentially all of the market share lost in the early 1980s to the subsidized imports, and have experienced a restoration of profit.

During that same period, price increases have been very few and small in size, reflecting the competition between the domestic producers and low-cost competition from two East European countries in the marketplace.

Even though the industry appears to have recovered well financially, the profits have not been exceptional, and have been favorably affected by depressed pork prices and a reduction of other expenses.

The Tribunal considers that the industry is still vulnerable to the resumption of uncountervailed subsidized imports for a number of reasons. Price increases, which have been few and fairly modest, may reflect the vigorous market competition and the low cost for raw materials in recent years. A resumption of the unchecked subsidized imports would cause increasing downward pressure on prices. Moreover, the grocery trade has a diminished loyalty to manufacturers of brand-name products; thus, lowest price is now what matters most to these retailers. The non-food sector, including such mass merchandisers as K-Mart and Zellers, is even more price-sensitive than the grocery trade, and is not brand loyal. As proof of this price sensitivity, the only price increase implemented by Canada Packers since the finding resulted in a significant reduction of sales volume to this sector.

The Tribunal believes that there also exists a clear propensity on the part of importers to switch to the lowest cost source. One major importer, for example, switched sourcing from the Netherlands to an East European country, when the relative cost of purchasing from the Netherlands became too high, and then marketed the product under the same brand name.

This is true not only of that single major importer, but others as well. There also exists, in the Tribunal's opinion, a propensity on the part of retailers to switch to the lowest cost source. The witness for Gainers testified that his company was able to obtain some private brand business from retailers previously sourcing from a supplier from the Netherlands. These retailers operate on an in-and-out basis and would undoubtedly switch back to the lowest cost source, as soon as it was feasible to do so.

The most important factor in the current review, in the Tribunal's view, is the level of export subsidy applicable to canned ham. It is the opinion of the Tribunal that there is a direct relationship between the level of export subsidy and the injury which would be suffered by the industry if the finding were rescinded. The current subsidy, some 40 cents per pound, is at least as high as the level which prevailed at the time of the finding and represents a significant amount in relation to the product's wholesale selling price (i.e., roughly 15 to 25 percent). The Tribunal does not doubt that the magnitude of this subsidy, in relation to the wholesale selling price, would provide the importers with a substantial price advantage in the marketplace in the event of a rescission of the finding. The impact would be immediate in the case of the price brands and the private brand business, and would ultimately affect the premium brands, given the erosion of brand loyalty that has taken place in recent years.

The Tribunal observes that subsidized imports of canned ham had quickly captured a significant share of the market in the year preceding the finding (i.e., 1983). In order to assess the magnitude of the anticipated losses, given the current level of subsidy in the event of a rescission of the finding, the Tribunal actively questioned each producer on the percentage reduction in volume that occurred in the year leading to the Tribunal's finding, and to relate these volume reductions to a present-day financial scenario. The figures provided, in the Tribunal's view, equate to a significant reduction in sales, and hence a significant reduction in profitability for both domestic producers. The Tribunal considers this reduction in volume to be a reasonable and conservative measure of the magnitude of the impact one could expect on the industry's financial performance in the event of a rescission of the finding, given that the current subsidy rates are at least as high as those which prevailed at that time.

Given the foregoing reasons, the Tribunal is of the view that the finding relating to the subject canned ham under 1.5 kg per can should be continued, without amendment.

Canned Luncheon Meat

The Tribunal notes that the evidence filed and the arguments presented in the case of canned luncheon meat share many common features with those described under canned ham. The domestic producers have collectively increased production and sales, essentially recaptured all of the market share lost in the early 1980s and have experienced an improvement in the level of profits since the finding. Price increases for the products have been infrequent and modest, reflecting the keen competition between the domestic producers. The level of export subsidies for the subject countries has also closely followed the trends described for canned ham. Despite these common factors, a number of points or observations distinct to canned luncheon meat need to be addressed by the Tribunal in order to assess whether a continuation of the finding is warranted.

Although the industry's financial performance on sales of canned luncheon meat has been quite good in the last few years, and has, in fact, exceeded profitability levels for canned ham, it has been dependent, to some extent, on a number of circumstances similar to those prevailing for canned ham, principally low raw material costs (i.e., pork prices). The evidence shows that pork prices have been depressed since 1987, but that a firming trend is expected in the near future. As pork prices increase, costs for the domestic producers will increase and margins on the subject goods will fall unless producers have more success in increasing prices than they have had in the past.

The canned luncheon meat sector, in the Tribunal's view, is just as vulnerable as the canned ham sector to the resumption of uncountervailed subsidized imports. The current export subsidy level, expressed in Canadian funds, is actually higher than the level which prevailed at the time of the ADT finding, and is of the order of 25 cents per pound, or 20 cents per tin. The level of this subsidy is proportionately as important as the current subsidy on canned ham, given the lower selling price for canned luncheon meat. Pricing evidence provided by Canada Packers in its testimony showed that, without the application of countervailing duties, the current subsidy level would have provided, in effect, a distinct retail price advantage for the imported products in the luncheon meat market. Given the price sensitivity of certain retailers, the Tribunal does not doubt that such a price spread would provide a strong incentive to switch product sourcing to the EEC countries. Volume losses would result, accompanied by downward pressure on prices and a severe loss of profitability. Given the current high level of export subsidy, the magnitude of the impact on the industry's performance, in the Tribunal's view, can reasonably be expected to approximate the reduction in sales of canned luncheon meat that occurred in the year leading to the finding (i.e., 1983). In that year, the Tribunal observes that subsidized imports from the subject countries captured over one quarter of the market. Both domestic producers were asked to provide an estimate of the financial impact on their current operations resulting from a sales reduction of the same percentage as experienced in 1983, when subsidized imports entered the country unchecked. The resulting figures equate, in the Tribunal's view, to a significant reduction in sales volume and in profitability for the two domestic producers.

Given the foregoing reasons, the Tribunal is of the view that the finding relating to the subject canned luncheon meat should be continued, without amendment.

Sidney A. Fraleigh
Sidney A. Fraleigh
Presiding Member

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