

THE  
CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL



AN INQUIRY INTO  
THE IMPORTATION OF  
BONELESS BEEF,  
ORIGINATING IN COUNTRIES  
OTHER THAN THE  
UNITED STATES OF AMERICA

May 28, 1993

REFERENCE NO. GC-93-001

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**AN INQUIRY INTO THE  
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ORIGINATING IN COUNTRIES OTHER  
THAN THE UNITED STATES OF AMERICA**

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## Canadian International Trade Tribunal

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The Canadian International Trade Tribunal is an independent quasi-judicial body which reports to Parliament through the Minister of Finance. It was established on December 31, 1988, by the *Canadian International Trade Tribunal Act*. The Tribunal hears appeals from rulings by Revenue Canada on customs, excise and sales tax matters. The Tribunal makes findings on whether or not imported goods, which have been found to be dumped or subsidized, are injuring Canadian production of such goods. It also conducts import safeguard inquiries at the request of the government or domestic producers. Finally, the Tribunal acts almost as a standing commission of inquiry with powers to conduct research, hold public hearings and report on a broad range of matters relating to the economic, trade, tariff or commercial interests of Canada.

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## FOREWORD

On April 16, 1993, the Governor in Council asked the Canadian International Trade Tribunal to assess whether imports of boneless beef from countries other than the United States were causing or threatening to cause serious injury to Canadian producers of like or directly competitive products. In the event that the Tribunal found serious injury or threat thereof, we were also asked to provide advice as to the most appropriate remedy, taking into account Canada's international rights and obligations. The terms of reference asked us to conduct the inquiry in an expeditious manner and to provide a report to the government within six weeks.

We considered several major issues in providing the assessment required in the terms of reference. First, we found that there had been a significant increase in imports of boneless beef originating in countries other than the United States in the first four months of 1993 and declining prices for these imports. Second, we found that the Canadian producers of like or directly competitive products are the slaughterers, boners and cattle producers in Canada.

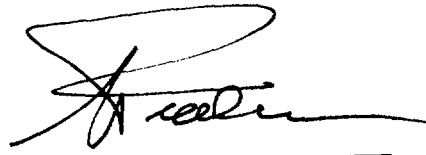
In our opinion, it is likely that imports of boneless beef from countries other than the United States will continue at the levels seen in the first four months of 1993, as the two principal exporters to Canada, Australia and New Zealand, have the capacity to continue to produce boneless beef in large quantities. Furthermore, there are limited ready markets for substantial quantities of additional boneless beef exports from these countries.

It is our assessment that the increased imports of boneless beef from countries other than the United States have not yet caused serious injury to Canadian slaughterers, boners and cattle producers. However, in our view, the increased imports threaten to cause serious injury to Canadian producers in the future. The record high levels of boneless beef from Australia and New Zealand imported into Canada at low prices will inevitably lead to a reduction in the market share of the domestic slaughterers and boners, and to a suppression of prices for fresh domestic boneless beef. This may threaten the continued viability of the remaining slaughterers and boners in Canada. Further as less boneless beef is produced in Canada, domestic cattle prices and profits will decline, inducing cattle producers to market more cattle in the United States.

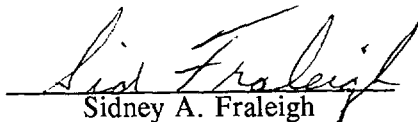
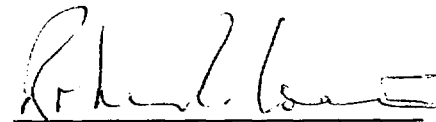
It is our recommendation that the most appropriate remedy to address this threat of serious injury, taking into account Canada's international rights and obligations, would be a tariff rate quota on imports of boneless beef from countries other than the United States, administered under the *Meat Import Act* and the *Customs Tariff*, for a period of three consecutive years, commencing on May 1, 1993, and ending on December 31, 1995. We recommend that a quantitative restriction be placed on imports of boneless beef from countries other than the United States in an amount of 72,021 tonnes per year that would be subject to the applicable most-favoured-nation tariff rate. Imports above that level would be subject to an additional tariff of 25 percent ad valorem. In suggesting this remedy, the Tribunal has been cognizant of the need to develop a remedy that is no more than necessary to prevent the threat of serious injury to Canadian slaughterers, boners and cattle producers, which also does not cause undue hardship to downstream users of the imports.

We would like to thank the many producers, further processors and importers of boneless beef that completed our questionnaires, prepared submissions and participated in the public hearing. The time frame set by the government for the inquiry was demanding and, without the cooperation that we received from counsel and parties, we would not have been able to complete this report within the deadline set by our terms of reference.

We would also like to thank the Tribunal staff for their dedication and fine work.

A handwritten signature in black ink, appearing to read 'A. Trudeau', written over a horizontal line.

Arthur B. Trudeau  
Presiding Member

A handwritten signature in black ink, appearing to read 'Sid Fraleigh', written over a horizontal line.  
Sidney A. Fraleigh  
MemberA handwritten signature in black ink, appearing to read 'Robert C. Coates', written over a horizontal line.  
Robert C. Coates, Q.C.  
Member

Ottawa, Friday, May 28, 1993

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# **REPORT OF THE CANADIAN INTERNATIONAL TRADE TRIBUNAL ON BONELESS BEEF ORIGINATING IN COUNTRIES OTHER THAN THE UNITED STATES OF AMERICA**

## **1. TERMS OF REFERENCE**

This report completes a six-week inquiry by the Canadian International Trade Tribunal (the Tribunal) into the importation of boneless beef originating in countries other than the United States. This inquiry was referred to the Tribunal on April 16, 1993, by the Governor in Council on the recommendation of the Minister of Finance, the Minister of Agriculture and the Minister of Industry, Science and Technology and Minister for International Trade, pursuant to section 20 of the *Canadian International Trade Tribunal Act*<sup>1</sup> (CITT Act).

The terms of reference for the inquiry are:

- (a) to forthwith inquire into the importation of boneless beef by
  - (i) providing an assessment of whether the importation of boneless beef, originating in countries other than the United States, is causing or threatening to cause serious injury to Canadian producers of like or directly competitive products, and
  - (ii) in the event that the importation of boneless beef originating in countries other than the United States is found to be causing or threatening to cause serious injury to Canadian producers of like or directly competitive products, providing advice as to the most appropriate remedy to address the situation, taking into account Canada's international rights and obligations under bilateral and multilateral trade agreements; and
- (b) to submit its report within six weeks after the date of the Order.

A copy of the Order-in-Council is attached as Appendix 1.

The preamble to the terms of reference states that importations into Canada of boneless beef at prices appreciably below domestic prices for boneless beef have been increasing significantly, particularly since the entry into force on January 1, 1993, of arrangements by Australia and New Zealand to voluntarily restrain their exports of boneless beef to the United States; and, in light of the rapid increase in importations of boneless beef into Canada, it was desirable that an inquiry in respect of injury arising from the importation of boneless beef be conducted expeditiously.

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1. R.S.C. 1985, c. 47 (4th Supp.), as amended by the *Canada-United States Free Trade Agreement Implementation Act*, S.C. 1988, c. 65, ss 52-59.



## 2. ASSESSMENT

There are three major issues to consider in providing the assessment required in paragraph (a)(i) of the terms of reference: (1) whether there has been an increase in imports of boneless beef from countries other than the United States; (2) who are the Canadian producers of like or directly competitive products; and (3) whether the increase in imports is causing or threatening to cause serious injury to Canadian producers of like or directly competitive products. In addition, the Tribunal has examined whether it has jurisdiction to conduct an inquiry concerning imports of boneless beef, excluding imports from the United States.

The Tribunal's assessment, based on its inquiry, is that the increased importation of boneless beef from countries other than the United States is threatening to cause serious injury to Canadian producers of like or directly competitive products. The Tribunal finds that Canadian producers of like or directly competitive products include slaughterers, boners and cattle producers.

Having made an assessment of threat of serious injury, the Tribunal advises the Governor in Council that the most appropriate remedy, taking into account Canada's international rights and obligations, would be a tariff rate quota administered under the *Meat Import Act*<sup>2</sup> and the *Customs Tariff*,<sup>3</sup> as described in Part 8 of this report.

## 3. JURISDICTION

The Order-in-Council establishing the terms of reference was made pursuant to section 20 of the CITT Act which provides that:

*The Tribunal shall inquire into and report to the Governor in Council on any matter in relation to*  
*(a) the importation of goods into Canada that may cause or threaten injury to, or that may retard the establishment of, the production of any goods in Canada ...*  
*that the Governor in Council refers to the Tribunal for inquiry.*

Where the Governor in Council has referred a matter to the Tribunal under section 20 of the CITT Act, subsection 21(1) of the CITT Act states that "[t]he Tribunal shall conduct an inquiry under section ... 20 and shall prepare its report thereon in accordance with the terms of reference therefor established by the Governor in Council."

The Tribunal's jurisdiction to conduct this inquiry is derived from Order-in-Council P.C. 1993-760, made pursuant to section 20 of the CITT Act. The Tribunal is a creature of statute and, as such, it must take its jurisdiction from the specific provisions of its governing legislation.<sup>4</sup> In our view, the Tribunal is bound, by virtue of section 20 and subsection 21(1) of the CITT Act, to follow the directions set out by the Governor in Council in the terms of reference.

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2. R.S.C. 1985, c. M-3, as amended by S.C. 1988, c. 65.

3. R.S.C. 1985, c. 41 (3rd Supp.), as amended by S.C. 1988, c. 65.

4. *Chrysler Canada Ltd. v. Canada (Competition Tribunal)*, [1992] 2 S.C.R. 394.

In the Order-in-Council, the Tribunal has been directed, *inter alia*, to provide:

*an assessment of whether the importation of boneless beef, originating in countries other than the United States, is causing or threatening to cause serious injury to Canadian producers of like or directly competitive products.*

Thus, the Tribunal has been directed, by the terms of reference, to make an assessment of serious injury or threat thereof relating to imports of boneless beef from countries other than the United States. The Governor in Council has expressly directed the Tribunal not to include imports from the United States in its assessment. In our view, therefore, the Tribunal may examine imports from the United States only as another factor which may be contributing to any serious injury or threat thereof caused by boneless beef imports from countries other than the United States.

Section 20.1 of the CITT Act was added in 1988, as a result of the *Canada-United States Free Trade Agreement Implementation Act*,<sup>5</sup> in order to implement Chapter Eleven of the *Canada-United States Free Trade Agreement*<sup>6</sup> (the FTA) dealing with Emergency Action. Subsection 20.1(3) provides as follows:

*Where, in an inquiry conducted pursuant to section 20 ..., the Tribunal finds that goods originating in the United States and goods of the same kind originating in other countries are being imported in such increased quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods, the Tribunal shall determine whether the quantity of such goods originating in the United States is substantial in comparison with the quantity of goods of the same kind originating in other countries and whether the goods originating in the United States contribute importantly to the serious injury or threat thereof.*

In the 1990 Supreme Court of Canada decision, *National Corn Growers Assn. v. Canada (Import Tribunal)*,<sup>7</sup> Mr. Justice Gonthier, speaking for the majority, found that it was not unreasonable for the Canadian Import Tribunal, in interpreting its domestic legislation, to examine an underlying international agreement where there is any ambiguity in the domestic legislation.

In our view, subsections 20(1), 20.1(3) and 21(1) of the CITT Act are not ambiguous and, therefore, the Tribunal does not need to examine the FTA to clarify an uncertainty in the legislation. Section 20 and subsection 21(1) oblige the Tribunal to conduct an inquiry and make a report in accordance with the Governor in Council's terms of reference. Subsection 20.1(3) requires the Tribunal to determine whether the quantity of U.S. goods is substantial and whether it contributes importantly to the serious injury or threat thereof, in circumstances where, in an inquiry pursuant to section 20, the Tribunal "finds that goods originating in the United States and goods of the same kind originating in other countries are being imported in such increased

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5. S.C. 1988, c. 65.

6. *Canada Treaty Series*, 1989, No. 3 (C.T.S.), signed on January 2, 1988.

7. [1990] 2 S.C.R. 1324.

quantities and under such conditions as to be a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods." That is not the case at hand.

The Tribunal has not been asked, in the terms of reference, to make a finding with respect to both goods originating in the United States and goods originating in other countries. The Tribunal has been expressly directed by the Governor in Council, in this inquiry, to make an assessment relating to imports of boneless beef originating in countries other than the United States. Therefore, in our view, section 20.1 of the CITT Act does not apply to this inquiry. For the same reasons, we are also of the view that subsection 60(1.2) of the *Customs Tariff* and subsection 5(4.1) of the *Export and Import Permits Act*,<sup>8</sup> which set out remedies that the Governor in Council may apply pursuant to an inquiry under section 20 of the CITT Act where U.S. goods are included, do not apply to this inquiry.

This reference was initiated by the Governor in Council pursuant to section 20 of the CITT Act and not by a complaint by domestic producers pursuant to sections 22 to 30 of the CITT Act. In our view, therefore, the provisions of the CITT Act and the *Canadian International Trade Tribunal Regulations*<sup>9</sup> (the CITT Regulations) relating to complaints by domestic producers do not apply to this inquiry.

#### **4. CONDUCT OF THE INQUIRY**

The Governor in Council asked the Tribunal to conduct the inquiry expeditiously and to submit its report within six weeks after the date of the Order, that is by May 28, 1993.

The first two weeks were used to notify interested persons of the inquiry, to prepare staff work and to allow parties to prepare their written submissions to the Tribunal. By notice of inquiry dated April 19, 1993, the Tribunal informed some 200 interested persons of the inquiry and requested submissions. The Tribunal sent questionnaires to over 60 Canadian slaughterers, boners, further processors and importers of boneless beef, requesting production, import and sales information covering the period from January 1991 to March 1993.

The third week of the inquiry allowed for an exchange of information. Parties were requested to file their written submissions with the Tribunal by May 3, 1993. Between May 4 and 7, 1993, these submissions and the research work of the Tribunal staff were distributed to all parties. Parties were requested to serve, on the Tribunal and each other, by May 7, 1993, their witness statements and replies to the other parties' submissions.

The fourth week of the inquiry was set aside for the public hearing. Public and *in camera* hearings were held in Ottawa, Ontario, from May 11 to 14, 1993. Thirty-nine witnesses appeared before the Tribunal, including four government representatives, one from the Government of Alberta and three from the Department of Agriculture. A list of all witnesses and their counsel or representatives is attached as Appendix 2. In addition to the evidence provided by the parties who attended the hearing, the Tribunal reviewed submissions and questionnaire

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8. R.S.C. 1985, c. E-19, as amended by S.C. 1988, c. 65, s. 117.

9. SOR/89-35, December 27, 1988, *Canada Gazette* Part II, Vol. 123, No. 2 at 255.

responses from forty other companies and organizations, a list of which is attached as Appendix 3.

During the fifth and sixth weeks of the inquiry, the panel reviewed the evidence, deliberated, made its decision and prepared this report.

## **5. DESCRIPTION OF IMPORTED BONELESS BEEF**

There are two broad categories of imported boneless beef: high-quality, table-ready cuts and boneless manufacturing beef destined for further processing. Within the boneless manufacturing beef category, there are two product groups: grinding beef and beef cuts. Grinding beef is used for manufacturing hamburger patties, ground beef and further processed products, such as weiners and sausages. The industry standard for grinding beef is 85-percent chemical lean (fat content is 15 percent). Beef cuts are processed into deli meats, such as pastrami or corned beef, and used in the manufacture of controlled-portion cuts for the foodservice industry.

Boneless beef enters Canada in both fresh or chilled and frozen forms. The tariff item for fresh or chilled boneless beef is tariff item No. 0201.30.00, while that for frozen boneless beef is tariff item No. 0202.30.00. The 10-digit codes and applicable rates of duty for boneless beef are shown in Appendix 4. Virtually all boneless beef imported from sources other than the United States is frozen product and, of this, the vast majority is grinding beef.

Over the last several years, the countries other than the United States exporting boneless beef to Canada have been Australia, New Zealand and Nicaragua.

## **6. POSITION OF PARTIES**

### **a) Parties Alleging Serious Injury**

Several parties argued that producers of like or directly competitive products are being seriously injured or threatened with serious injury by the surge in imports of boneless beef originating in countries other than the United States. The focus of their argument related to the threat of serious injury in the future from the increased level of imports. These parties represented participants in all stages in the production of boneless beef, from cow-calf and feedlot operators, through to slaughterers and boners. They contended that there is a continuous chain of production for boneless beef, that goes from cattle to the boner, and that all participants in that chain are the producers of like or directly competitive products.

Counsel for these parties submitted that Australian and New Zealand boneless beef was being diverted to Canada during the first four months of 1993 as a result of voluntary restraint agreements (VRAs) negotiated between those countries and the United States. Further, counsel argued that the surge in imports would continue because of oversupply conditions in Australia and New Zealand, reduced access to the U.S. market for the remainder of the year and the lack of alternative markets for this beef.

These parties pointed out that the price spread between imported frozen boneless beef and Canadian fresh boneless beef, normally about \$0.05/lb., was currently in the \$0.20-to-\$0.60/lb. range. They argued that this high price spread is not sustainable. Counsel submitted that, while testimony from some further processors suggested that fresh and frozen boneless beef were not substitutable and that further processors were reluctant to change their formulas for meat products, this was only true when the price differential was at the traditional \$0.05/lb. level. In the longer term, it was argued, fresh and frozen boneless beef are substitutable, and the degree of substitutability is a function of the relative price of the two products.

Counsel submitted that domestic slaughterers and boners cannot operate profitably under the present conditions of a large price gap between the imported and domestic products. Evidence suggests that customers will substitute frozen boneless beef for fresh when the price gap becomes too large to ignore. These slaughterers and boners will face reduced demand in light of high inventory levels of low-cost imported boneless beef. In addition, slaughterers cannot afford to purchase cows because they cannot get the required prices for the resulting beef. As counsel for the Canadian Meat Council (CMC) stated, "[t]hey cannot buy cows dear to sell boneless beef cheap."<sup>10</sup>

In argument, counsel submitted that the decline of the slaughter and boning sectors of the industry was a long-term trend in a gradually declining market where imports had been steadily, but slowly, gaining market share. This decline, it was submitted, was due to several factors, including the rationalization of the Canadian slaughtering and boning industry and a lack of government protection, but the decline was not directly attributable to increased imports. However, the surge in imports during the first part of 1993 has created a price spread between the price of imported boneless beef and that of domestic boneless beef, in which lie the seeds of future serious injury.

Counsel argued that the increased imports of boneless beef will lead to the export of Canadian cattle and beef to the U.S. market, which will place the industry at risk of retaliation from the United States. Counsel contended that the United States will not tolerate frustration of its VRAs.

With regard to remedies, counsel for the CMC suggested that the historical levels of imports prior to the surge in the first four months of 1993 have not been injurious and that these levels should be maintained, as they have become necessary to the operations of Canadian further processors. If serious injury or threat thereof were found, and the recommended remedy were import quotas, the CMC submitted that such quotas should be allocated to further processors, based on their historical use of imported beef in their operations, not to the historical importers-of-record. If a surtax were the recommended remedy, counsel submitted that further processors should be exempt from the surtax for imports up to their traditional levels of use of imported boneless beef.

The Canadian Cattlemen's Association (CCA), on the other hand, submitted that, if serious injury or threat thereof were found, the government should implement the provisions of the *Meat Import Act*, establishing import quotas according to the provisions of that act or the

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10. Transcript, Vol. 4, May 14, 1993, at 1196.

global minimum access commitment, whichever was greater. It was further submitted that, in administering import quotas under the *Meat Import Act*, the government should not take into account the level of imports during the first quarter of 1993, as these were abnormally high, and should impose quotas by prorating a normal amount of import quota for the remaining three quarters of 1993.

**b) Parties Opposing Allegations of Serious Injury**

Parties opposing allegations of serious injury argued that there were no domestic producers of like or directly competitive goods and that the imports of boneless beef originating in countries other than the United States were not causing or threatening to cause serious injury.

Imports from countries other than the United States were characterized as consisting almost entirely of frozen boneless beef, in the form of either grinding beef or, to a lesser extent, beef cuts for further processing. In contrast, it was argued that the majority of domestic boneless beef production is fresh.

It was further argued that, because imports of boneless beef from countries other than the United States are derived largely from grass-fed cattle, they differ from the grain-fed beef produced in Canada in terms of taste and, in the case of cuts, in terms of size. Boneless beef from Australia and New Zealand was also claimed to have lower microbiological counts than domestic beef.

Evidence was led that fresh and frozen boneless grinding beef are not substitutes for one another in the manufacture of hamburger patties or further processed products, such as weiners and sausages. Rather, it was contended that fresh and frozen grinding beef are complements to one another and that increased imports of frozen grinding beef should lead to increases in demand for fresh grinding beef. The fact that the price of fresh domestic boneless beef is currently higher than that of imported frozen boneless beef was cited as evidence that the two products have different markets and are not treated as substitutes. Similarly, imported boneless beef cuts were claimed to have unique properties which distinguish them from domestic cuts.

The increase in imports of boneless beef from countries other than the United States that occurred in the first quarter of 1993 was claimed to have been the result of transitory factors in the marketplace, and it was argued that there was no evidence that imports would not return to more traditional levels in the remainder of the year. In particular, the action of the Government of the United States on April 24, 1993, to prevent shipments of commingled beef from Canada would eliminate the incentive, it was argued, to import offshore boneless grinding beef to be "lightly processed" in Canada for subsequent exportation to the United States. Finally, they argued that the high volumes of boneless beef from countries other than the United States seen in the market in March and April 1993 were also due, at least in part, to uncertainty caused by the announcement of this inquiry and rumours of future restrictions on imports.

It was contended that the current price spread between domestic boneless beef and boneless beef from countries other than the United States is sustainable and would not lead to price suppression. In a fully integrated North American market, the prices for boneless beef should tend to be similar in Canada and the United States. However, the establishment of the

VRAs in the United States has isolated that market and has led to a U.S. price for frozen boneless beef which is different from and higher than the world price.

Parties opposing allegations of serious injury argued that any decreases in sales or profitability currently being experienced by domestic slaughterers and boners were the result of the ongoing rationalization of the industry and were not due to increased imports of boneless beef from countries other than the United States. It was contended that the only directly competitive product to domestically produced boneless beef is fresh boneless beef originating in the United States. Because of lower labour rates and economies of scale due to the larger operations, U.S. slaughterers and boners are able to export boneless beef to Canada at prices which Canadian slaughterers and boners are unable to meet. In addition, U.S. slaughterers, in many cases, are able to outbid Canadian slaughterers for supplies of cattle. The supply of cattle to domestic slaughterers and boners is being further decreased by continuing reductions in the size of the dairy herd. Similar shortages are being experienced in the United States, which has the effect of "pulling" cattle from Canada into the United States.

Arguments were advanced that cattle producers did not produce like or directly competitive goods to boneless beef, but that they were suppliers to the slaughtering and boning industry. In any case, parties pointed to the current price levels for slaughter cattle and cows, which are high by historical standards and which increased in the first quarter of 1993, as evidence that cattle producers were not suffering from or threatened with serious injury.

As to the threat of serious injury, it was argued that, before the United States could take action against Canadian beef exports pursuant to paragraph 2 of Article 704 of the FTA, there must be consultations between the two governments. Parties argued that the evidence showed that there had been no requests for consultations from the U.S. government. Given the fact that the United States does not have an adequate supply of cattle and manufacturing beef, it is not plausible that the United States will restrict exports from Canada. In any case, far from there being displacement of Canadian cattle, total exports are lower in the first quarter of 1993 than in the first quarter of 1992. For all of these reasons, it was argued, there is no evidence that the United States will retaliate under paragraph 2 of Article 704 of the FTA.

Importers-of-record of boneless beef argued that, if the Tribunal were to recommend the establishment of import quotas for boneless beef, they should be allocated import quota. Similarly, certain users of boneless beef argued that, if import quotas were put in place, they should be allocated sufficient import quota to fulfil their input requirements.

## 7. ANALYSIS OF SERIOUS INJURY OR THREAT THEREOF

### a) Producers of Like or Directly Competitive Products

In order to determine whether the importation of boneless beef from countries other than the United States is causing or threatening to cause serious injury, the Tribunal must first make a finding as to who are the "Canadian producers of like or directly competitive products."

Section 3 of the CITT Regulations defines "like or directly competitive goods" as follows:

*"like or directly competitive goods" means*

*(a) goods that are identical in all respects to the goods that are the subject of a complaint, or*

*(b) in the absence of any identical goods referred to in paragraph (a), goods the uses and other characteristics of which closely resemble those goods that are the subject of a complaint.*

The Tribunal notes that the above definition applies only in respect of "goods that are the subject of a complaint" in a producer-initiated safeguard action under sections 22 to 30 of the CITT Act. The Tribunal is, therefore, of the view that it is not bound to apply this definition in a reference under section 20 of the CITT Act. Furthermore, the definition of "like goods" in section 2 of the *Special Import Measures Act*<sup>11</sup> (SIMA), which applies only in anti-dumping and countervailing duty inquiries, does not apply in this reference under section 20 of the CITT Act.

The phrase "like or directly competitive products" is taken from the language of Article XIX of the *General Agreement on Tariffs and Trade*<sup>12</sup> (GATT), and although there has not been any GATT interpretation of this phrase, John H. Jackson, an acknowledged trade legal scholar, suggests that it is clearly intended to be interpreted more broadly than "like products."<sup>13</sup>

The interpretation adopted by the International Trade Commission (ITC) in the United States in escape clause inquiries is consistent with the view that "like or directly competitive products" is to be interpreted more broadly than "like products." It is helpful, therefore, to examine how the ITC has interpreted the phrase "like or directly competitive products" in escape clause cases.

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11. R.S.C. 1985, c. S-15.

12. Basic Instruments and Selected Documents, Volume IV, Geneva, March 1969.

13. See John H. Jackson, World Trade and the Law of GATT, (Indianapolis: The Bobbs-Merrill Company, Inc., 1969) at 261-62, where Professor Jackson states that,

*[A]n explicitly broader phrase does occur in Article XIX -- the escape clause. This phrase says "like or directly competitive" and clearly is intended to be broader than merely "like products." The purpose ... of a GATT obligation when it is causally related to imports that are injuring domestic producers -- supports a need for a broader similarity test so that competing products, which can cause injury, are brought within its scope.*



Section 201 of the *Trade Act of 1974*<sup>14</sup> requires the ITC to determine whether,

*an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.*

Subsection 601(5) of the *Trade Act of 1974*<sup>15</sup> provides additional guidance on how the phrase "directly competitive with" may be interpreted:

*An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article.*

In certain cases involving agricultural or fisheries industries, the ITC has included resources at all stages in the production process in its assessment of "like or directly competitive" articles. In *Apple Juice*,<sup>16</sup> in 1986, the ITC found that the producers of the raw product, namely, apples, were part of the domestic industry which produced apple juice. The ITC commented that "[i]f the product has several stages of production, the industry would include the resources employed at each level ... It is important that the Commission's injury determination of serious injury embrace the industry as a whole, not just the facilities at one stage of production."<sup>17</sup> In *Certain Canned Tuna Fish*,<sup>18</sup> in 1984, the ITC concluded that the boats and fishermen involved in catching tuna were one of the productive resources involved in the production of canned tuna and were, therefore, part of the domestic industry for canned tuna, particularly since they represented such a large proportion of the productive resources for producing canned tuna.

For the purposes of this inquiry, the Tribunal adopts an interpretation of the phrase "producers of like or directly competitive products" similar to that adopted by the ITC in the above-mentioned cases under section 201 of the *Trade Act of 1974*.

In our view, domestically produced boneless beef, under certain conditions, is substitutable for and competes with imports of boneless beef either in fresh or frozen form. According to several witnesses,<sup>19</sup> the usual practice in Canada is to use a mixture of both fresh and frozen grinding beef to manufacture hamburger patties for sale to fast-food chains and to produce ground beef for retail sales. It was argued by some parties that fresh and frozen grinding beef were complements rather than substitutes. The Tribunal is of the opinion that fresh and frozen grinding beef are substitutes, not complements. If they were complements, the

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14. 19 U.S.C. 2252.

15. 19 U.S.C. 2481.

16. U.S. International Trade Commission, Inv. No. TA-201-59 (Pub. 1861) June 1986; (1986), 9 ITRD 1056.

17. *Ibid.* at 1058.

18. U.S. International Trade Commission, Inv. No. TA-201-53 (Pub. 1558) August 1984; (1984), 6 ITRD 2464.

19. Transcript, Vol. 2, May 12, 1993, at 600-03, 607-08, 618, 624, 634, 754, 827 and 835.

increase in imports of frozen grinding beef during the first quarter of 1993 would have led to an increase in the production of domestic fresh grinding beef. However, the opposite occurred, and the production of fresh domestic boneless manufacturing beef, a large proportion of which is grinding beef, declined during the first quarter of 1993.<sup>20</sup> With respect to boneless beef cuts, the Tribunal heard evidence that both fresh and frozen products are currently being used to manufacture products such as smoked meat.<sup>21</sup>

The cattle producers provide a large proportion of the productive resources, i.e. cows, bulls, heifers and steers, for the production of boneless beef. The Tribunal notes that there is a high degree of economic interdependence between the cattle producers, who produce the raw input product, and the slaughterers and boners, who produce boneless beef. Any changes with respect to the price, supply and demand for boneless beef produced domestically by slaughterers and boners will have a direct effect on the price, supply and demand for live cattle in the Canadian market. In the Tribunal's view, a decline in the price for domestically produced boneless beef in Canada would result in a corresponding downward pressure on the price for live cattle in the Canadian market.

For the purposes of this inquiry, the Tribunal finds that the slaughterers, boners and cattle producers are "producers of like or directly competitive products."

**b) Increase in Imports of Boneless Beef Originating in Countries Other than the United States**

From January 1 to April 20, 1993, imports of boneless beef originating in countries other than the United States were 41,031 tonnes, 72 percent greater than what they had been from January 1 to April 30, 1992. Figure 1 shows the volumes of imports of boneless beef from countries other than the United States in 1991, 1992 and to April 20, 1993.<sup>22</sup>

In January 1993, imports of boneless beef from sources other than the United States were 4,582 tonnes, which was 22 percent lower than in January 1992. In February 1993, the volume of imports increased to 5,215 tonnes, which was 39 percent higher than during the same month in 1992. However, in March 1993, imports of boneless beef rose significantly to 17,490 tonnes, which represented an increase of 220 percent, compared to the volume seen in March 1992. By April 20, 1993, 13,743 tonnes of boneless beef had been imported, which already represented an increase of nearly 60 percent over the volume reported for the entire month of April 1992.

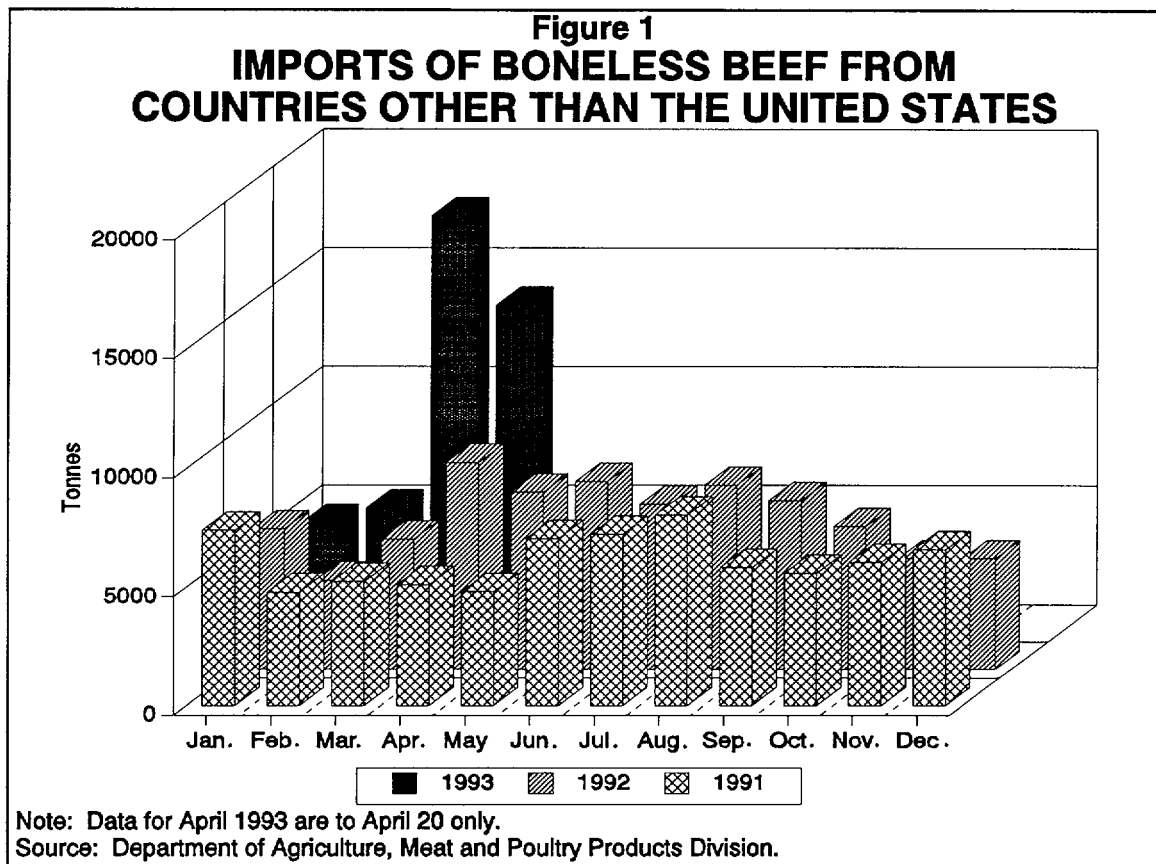
During the period examined in 1993, imports of boneless beef from Australia accounted for 63 percent of all imports from sources other than the United States, with New Zealand accounting for the remaining 37 percent. Imports of boneless beef from Nicaragua had fallen to a negligible level in the third quarter of 1992. During the period examined in 1993, imports of boneless beef from Australia were 120 percent higher than during the same period in 1992, while those from New Zealand were 101 percent higher.

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20. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

21. Transcript, Vol. 2, May 12, 1993, at 749.

22. Appendix 5 provides details.



The level of imports from the United States did not increase as dramatically during the period examined in 1993, growing by only 10 percent when compared to the same period in 1992. Boneless beef imports originating in the United States are generally fresh beef<sup>23</sup> and consist primarily of high-quality, table-ready cuts, rather than manufacturing beef.

Further, the surge in imports of boneless beef from countries other than the United States seen in the first four months of 1993 was a departure from the longer-term trend of modest growth; that is, from 1986 to 1992, such imports had grown by an average annual rate of 5 percent.<sup>24</sup>

Virtually all boneless beef imported from sources other than the United States enters Canada in the frozen state.<sup>25</sup> Evidence from the Australian Meat and Live-stock Corporation (AMLC) was that, in the case of Australia, grinding beef has historically accounted for more than two thirds of exports to Canada. The increase in boneless beef exported to Canada from Australia during the first quarter of 1993 reflected an increase in the volume of grinding beef.

23. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

24. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

25. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

The evidence of the New Zealand Meat Producers Board (NZMPB) was that approximately one half of exports to Canada from New Zealand is grinding beef, while the remainder is boneless beef cuts.<sup>26</sup>

Ronald A. Chisholm Limited and the Canadian Meat Importers Committee of the Canadian Importers Association Inc. argued that, when analysing the increase in offshore boneless beef imports in 1993, the volumes reported by the Department of Agriculture should be adjusted to reflect the amount of product subsequently re-exported to the United States.<sup>27</sup> The Tribunal does not accept this argument. Rather, it believes that imports, as normally defined by the import statistics, provide the better measure of the import surge. However, the Tribunal considers that the exportation of commingled or lightly processed boneless beef to the United States is relevant to the issue of serious injury.

### **c) Pricing of Boneless Beef in Canada and the United States**

The Tribunal has carefully reviewed pricing in the Canadian market for boneless beef. Figure 2 shows spot prices in Canada for domestic fresh grinding beef and frozen grinding beef imported from Australia and New Zealand for the period January 1991 to May 1, 1993. The data supporting the graph are shown in Appendix 6. In this section of the report, references to boneless beef are to boneless grinding beef. All prices are in Canadian dollars. Unless otherwise indicated, all prices are spot prices.

As shown on the graph, the spot price for boneless beef from Australia/New Zealand rose steadily in the first six months of 1991, peaking in June 1991 at \$1.57/lb. Thereafter, it declined, reaching a low of \$1.21/lb. in August 1992. The spot price of Australian/New Zealand boneless beef rose for the next six months. However, in March, April and May 1993, prices decreased substantially, falling from an average of \$1.46/lb. in February 1993 to \$1.20/lb. for the week ending May 1, 1993. These price decreases coincided with the substantial increases in boneless beef imports from countries other than the United States seen in the first four months of 1993. Evidence provided at the public hearing indicated that prices of Australian/New Zealand boneless beef are continuing to drop. One importer stated that he had recently purchased Australian/New Zealand boneless beef at \$0.96/lb.<sup>28</sup>

The responses to the Tribunal's questionnaire by importers of boneless beef give similar results, in that prices of "manufacturing beef" imported from Australia and New Zealand declined by less than 10 percent during 1992, but fell by over 20 percent in the first quarter of 1993 when compared to the first quarter of 1992.

In the first half of 1991, the trend in the spot price of Canadian fresh boneless beef was similar to that of Australian/New Zealand boneless beef, with the price reaching a peak in June 1991 at \$1.57/lb. The spot price of domestic boneless beef generally declined in the second half of 1991, reaching a low in November 1991 of \$1.37/lb. The domestic spot price generally rose throughout 1992 and early 1993, reaching \$1.69/lb. in February 1993. Prices in March and May 1993 were lower than those in February 1993.

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26. Pre-hearing submission of the NZMPB at 14.

27. Tribunal Exhibits GC-93-001-A27, Vol. 2B, and GC-93-001-A32, Vol. 2B.

28. Testimony of Henry Muller, Muller's Meats Limited, transcript, Vol.1, May 11, 1993, at 304.



The spot prices of domestic boneless beef were generally lower in Canada than in the United States. Prices in Canada were lower, on average, by \$0.09/lb. in 1991, by \$0.06/lb. in 1992, by \$0.03/lb. in the first quarter in 1993 and by \$0.16/lb. for the week ending May 1, 1993.

Finally, and as shown in Table 1, the spread between imported and domestic boneless beef prices has generally been greater in Canada than in the United States. For the week ending May 1, 1993, import prices in Canada were \$0.43/lb. less than domestic prices, compared to \$0.20/lb. less in the United States.

<b>Table 1</b>		
<b>SPREAD BETWEEN IMPORTED AND DOMESTIC BONELESS BEEF SPOT PRICES</b>		
	<b>(CAN\$/lb.)</b>	
	<b>Canada</b>	<b>United States</b>
Imported prices are lower than domestic prices by:		
1991	\$0.01	\$0.06
1992	\$0.14	\$0.03
First Quarter 1993	\$0.20	\$0.16
For the week ending May 1, 1993	\$0.43	\$0.20
<hr/>		
Source: Appendix 6.		

**d) Economic Analysis of the Impact of an Increase in Imports of Beef into Canada**

At the request of the Tribunal, the Department of Agriculture applied the Food and Agricultural Regional Model (FARM) to assess the impact of an increase in the importation of boneless beef into Canada from countries other than the United States on Canadian cattle and beef prices, production and trade.<sup>30</sup> The extended FARM model, which specifies economic relationships for both "high-quality" and "low-quality" beef,<sup>31</sup> was used to examine the impact

30. Tribunal Exhibit GC-93-001-7A, Vol. 1 at 232.1-232.31; Tribunal Exhibit GC-93-001-51, Vol. 1C at 264.1-264.159.

31. For this study, low-quality beef is considered to be from cow and bull slaughter and trimmings from steer and heifer slaughter. High-quality beef is considered to be from steer and heifer slaughter (excluding the trimmings). All imported product from countries other than the United States is considered to be low-quality beef.

of an increase of 85,000 tonnes (61,000 tonnes of retail product) of additional low-quality beef imports from countries other than the United States.<sup>32</sup>

The study compared two scenarios to a baseline representing the Department of Agriculture's medium-term forecast for 1993-99, as of May 1993. The first scenario assumed that there were no government restrictions on exports of beef from Canada to the United States. The second scenario assumed that the United States government restricted the imports from Canada of low-quality beef<sup>33</sup> to a level similar to that in the baseline.

In the first scenario, it was estimated that the main impact of the increased boneless beef imports was an increase in exports of both live cattle (mainly slaughter cows and bulls) and low-quality beef to the United States. Of the additional beef imported, approximately 94 percent would be exported to the United States in the form of Canadian live cattle and beef. Cow prices in Ontario would fall by over 7 percent, while, on a national basis, producer receipts would remain relatively stable, declining by only 1 percent. The increase in boneless beef imports would result in a small decrease in the retail price of low-quality beef (about 2 percent) and a small increase in consumption in Canada. However, there would be virtually no impact on the retail price or domestic consumption of high-quality beef in Canada.

In the second scenario, the results of the model provided an estimate that exports of live cattle to the United States from Western Canada would increase by 25 percent, while those from Eastern Canada would more than double. Again, most of the increase in cattle exports would consist of slaughter cows and bulls. Of the additional beef imported, approximately 42 percent of equivalent product would be exported to the United States in the form of Canadian live cattle. The producer price of cows would fall by about 10 percent in Canada. Canadian slaughterers and boners would be adversely affected, as low-quality beef production would decline by 39,000 tonnes, which represents 12 percent of domestic production. Domestic production would decline despite a 13-percent increase in domestic consumption of low-quality beef in response to a 12-percent decrease in retail price. There would be a small decrease in both the retail price and consumption of high-quality beef.

The Department of Agriculture's model is based on a number of simplifying assumptions and provides only an approximation of the Canadian cattle and beef industries. The Tribunal is of the view that the Department of Agriculture's FARM model provided a useful framework, indicating the direction of change in cattle and beef prices, domestic production and trade caused solely by the surge in imports from countries other than the United States.

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32. Imports from countries other than the United States in the first quarter of 1993 increased 81 percent over the same period in 1992. An assumption of 85,000 tonnes of additional low-quality beef imports is equivalent to an annual growth of 81 percent in 1993.

33. This restriction applied to any low-quality beef exports from Canada to the United States above the baseline, irrespective of whether the export was product which was Canadian, offshore or commingled.

**e) Serious Injury or Threat Thereof Caused by Imports of Boneless Beef Originating in Countries Other than the United States**

In the Tribunal's assessment, imports of boneless beef from countries other than the United States are not causing serious injury to Canadian producers of like or directly competitive products. Although there is no definition of "serious injury" in the CITT Act, the Tribunal's view is that it is a higher degree of injury than "material injury" in SIMA.<sup>34</sup>

The Tribunal finds that there has been a significant increase in imports of boneless beef from countries other than the United States from February to April 1993. If imports continue at these levels, and the Tribunal is of the opinion that they will, it is our view that these increased imports will threaten to cause serious injury to Canadian producers of like or directly competitive products.

In our consideration of whether the recent surge in imports of boneless beef originating in countries other than the United States is causing or threatens to cause serious injury to the producers in Canada of like or directly competitive goods, the Tribunal examined closely the economic condition of the slaughterers and boners, as well as the producers of cattle in Canada.

**(i) Slaughterers and Boners**

The Tribunal notes that the slaughtering and boning sector has been in a period of gradual decline over the last 10 to 15 years. During this time, the number of slaughterers and boners in Canada has decreased significantly, so that there is now only a handful of important players left in the market.<sup>35</sup> The economic condition of the slaughterers and boners in Canada is due to a number of factors. The decline in per-capita consumption of beef in Canada, and in North America overall, has been a contributing factor. More importantly, the increased integration of the North American beef processing industry has resulted in a rationalization of Canadian beef processing capacity. Further, in recent years, there has been a shortage of raw materials for slaughterers and boners of boneless beef in Canada caused by the reduction in the size of the dairy herd,<sup>36</sup> the volume of live cattle exports to the United States<sup>37</sup> and herd rebuilding.<sup>38</sup> In addition, there has been a gradual but steady increase in the level of imports of boneless beef from all sources.<sup>39</sup>

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34. This was also the view of the Anti-dumping Tribunal in the April 1973 report respecting The Effects of Footwear Imports on Canadian Production of Like Goods at ix-x:

*the main criteria against which claims of material injury from imports are usually judged are also relevant to determinations as to whether or not imports cause or threaten serious injury. Any difference between the two concepts would appear to be one of degree, it generally being necessary to show the imports cause or threaten injury which is more than just "material" before a finding of "serious" injury can be made.*

35. Tribunal Exhibit GC-93-001-A-31A, Vol. 2B, statement of Henry Muller; Tribunal Exhibit GC-93-001-A-21.1, Vol. 2, statement of Al Rogerson.

36. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

37. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

38. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

39. Tribunal Exhibit GC-93-001-22A, Addendum to Memorandum of Imports and Exports, Vol. 1C.



In an integrated North American market, Canadian slaughterers and boners have been required to compete against larger and more efficient U.S. slaughterers and boners.<sup>40</sup> In addition to being at a disadvantage because of economies of scale, Canadian slaughterers and boners face higher costs for several important inputs, including labour.<sup>41</sup> Moreover, Canadian slaughterers and boners have to bid against the larger and more efficient U.S. producers for their cattle supply.

The Tribunal recognizes that the difficult market conditions currently being faced by the domestic slaughterers and boners predate the surge in imports of boneless beef from countries other than the United States in the first four months of 1993. Nonetheless, the Tribunal is of the view that, because the domestic slaughterers and boners are already in a weakened state, they are particularly vulnerable to serious injury in the future if large volumes of imported boneless beef from sources other than the United States continue to enter Canada.

In this regard, the Tribunal notes that domestic production of beef for domestic consumption was down 6.4 percent in the first quarter of 1993 as compared with the first quarter of 1992.<sup>42</sup> This reduction in the volume of production is, in the Tribunal's view, related in some measure to the surge in imports during the same period.

The Tribunal has looked carefully at the prices for boneless beef in Canada in the first four months of 1993. An earlier section of this report compares spot prices in Canada for 85-percent chemical lean boneless beef produced in Canada to spot prices for imports of 85-percent chemical lean boneless beef from Australia and New Zealand. Within the Canadian market, the spot prices for domestically produced fresh boneless beef for the first four months of 1993 show that, while prices have increased in 1993, the prices in March and May are lower than those in February. In the Tribunal's view, this could be the first sign of a price suppression of domestic boneless beef caused by the surge in imports of boneless beef originating in countries other than the United States.

In assessing whether there is serious injury or threat thereof caused by imports of boneless beef from countries other than the United States, the Tribunal has kept two points in mind. First, the surge in imports is a very recent phenomenon. The surge began in March and April 1993. Based on forecasts for April, May and June 1993, it is expected that imports of boneless beef from Australia and New Zealand will continue to enter Canada at these abnormally high levels. Consequently, the Tribunal believes that the full impact of this surge in imports on the domestic slaughterers and boners is not yet evident. Second, because a portion of the imports of boneless beef were lightly processed for shipment to the United States, there was a safety valve which reduced the impact of the import surge on the domestic market. This safety valve was closed by the United States on April 24, 1993.<sup>43</sup>

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40. Testimony of Al Rogerson, transcript, Vol. 1, May 11, 1993, at 131; Live Cattle and Beef: U.S. and Canadian Industry Profiles, Trade, and Factors of Competition, USITC Publication 2591, January 1993 at xii.

41. Testimony of Al Rogerson, transcript, Vol. 1, May 11, 1993, at 131; testimony of Doug Miller, transcript, Vol. 1, May 11, 1993, at 262.

42. Tribunal Exhibit GC-93-001-A22, Pre-Hearing Staff Memoranda.

43. Tribunal Exhibit GC-93-001-A22, Pre-Hearing Staff Memoranda.

The Tribunal views the first four months of 1993 as a period of high uncertainty for Canadian slaughterers and boners. Prior to and during this period, the slaughterers and boners were struggling, but surviving, in the face of a declining market, increased imports and reduced production volumes. The Tribunal is of the opinion that the surge in imports of boneless beef from sources other than the United States has not yet caused serious injury to Canadian slaughterers and boners. However, if the volume of imports continues at current levels, the increased imports of boneless beef from countries other than the United States threaten to cause serious injury to the Canadian slaughterers and boners. The Tribunal is also of the view that imports of boneless beef from countries other than the United States are likely to continue at these increased levels and low prices unless restrictions are imposed.

Based on the actual volume of imported boneless beef from Australia and New Zealand landed in Canada from January to April 1993 and on forecasts of shipments leaving those countries in April, May and June of this year, the total volume of product entering Canada during the first six months of 1993 should approximate the level of imports for all of 1992.<sup>44</sup>

The Tribunal believes that Australia, in particular, and New Zealand, to a lesser extent, have the potential to continue to export boneless beef to Canada in high volumes, as demonstrated during the first four months of 1993. Production of boneless beef in Australia is forecast to remain quite high, which will result in continued oversupply relative to their traditional international market demand and in a probable reduction of cattle and beef prices in that country.<sup>45</sup> The combination of high production and restricted access to the United States<sup>46</sup> and Korea<sup>47</sup> means that product availability will stay in excess of market demand.<sup>48</sup> There were large amounts of imports of boneless beef from Australia and New Zealand in bonded warehouses in the United States at the end of 1992,<sup>49</sup> including 50,000 tonnes of Australian beef.<sup>50</sup> This beef held "in bond" at the beginning of the year will count against VRA allocations when released from inventory, and this may result in more boneless beef from Australia and New Zealand being diverted into Canada.

In addition, there are two world markets for beef: a market for beef from foot-and-mouth-disease-free countries and a market for beef from countries where foot-and-mouth-disease remains endemic. The price paid for beef from foot-and-mouth-disease-free countries is higher than that paid for beef from foot-and-mouth-disease-endemic countries. The United States, Canada, Japan, Korea, Taiwan, Australia and New Zealand are all foot-and-mouth-disease-free

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44. Tribunal Exhibit GC-93-001-A-43A; Tribunal Exhibit GC-93-001-A-25.1C, projections supplied by the AMLC and NZMPB.

45. Australian Meat and Live-stock Corporation, The Future of Beef in 1993, Jon Kelso, Tribunal Exhibit GC-93-001-A-24, Vol 2A.

46. The international limit (trigger level) for imports into the United States in 1993 is 1,259.2 million pounds. This is the lowest level since 1984. Australia's share of this limit is 694.9 million pounds, 7.4 percent less than their 1992 exports to the United States. New Zealand's share of this limit is 425.0 million pounds, 6.7 percent lower than their 1992 exports to the United States.

47. Cattle Council of Australia, National Cattle Market Bulletin, April 1993, Tribunal Exhibit GC-93-001-A-24, Vol. 2A.

48. *Ibid.*

49. Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

50. Australian Meat and Live-stock Corporation - Market Intelligence Unit, Meat & Livestock Review, March 1993, Tribunal Exhibit GC-93-001-A-24, Vol. 2A.

markets. There is only a limited number of other markets in which the Australian and New Zealand exporters can sell their beef at the same level of profitability.

The AMLC argued that some of the excess Australian beef supplies would be sold through increased exports to Japan and Korea. However, the Tribunal is not convinced that markets, other than Canada, are ready markets for substantial quantities of additional boneless beef from Australia. Although exports to Japan are increasing, the majority of these exports are table-ready cuts. In the Tribunal's view, the evidence indicates that Canada will continue to be a major market for Australian beef.<sup>51</sup>

The Tribunal believes that the record high levels of imported boneless beef from Australia and New Zealand will lead to a reduction in the market share of the domestic slaughterers and boners and to a suppression of prices for fresh domestic boneless beef. As previously discussed, the spot price for 85-percent chemical lean boneless beef from Australia and New Zealand fell from \$1.46/lb. in February 1993 to \$1.20/lb. in the week ending May 1, 1993, a decline of 18 percent. Historically, the prices of domestic fresh boneless beef and imported frozen boneless beef have generally fluctuated within \$0.02 or \$0.03/lb. of each other.<sup>52</sup> However, for the week ending May 1, 1993, the price spread was \$0.43/lb. The Tribunal is of the opinion that such a large price spread is not sustainable and that the price of domestically produced boneless beef will inevitably decline. Although there are no published price series of boneless beef cuts, the testimony and submissions of certain witnesses at the public hearing were that prices for imported cuts were less than those for similar domestic cuts.<sup>53</sup>

Evidence submitted and adduced during the public hearing shows that some further processors have already built stocks of imported boneless beef.<sup>54</sup> However, there is a limited amount of freezer storage space available in Canada for boneless beef and, as more imported boneless beef arrives in Canada and the available storage space is filled, the excess product will move into the already saturated market. In the Tribunal's view, this will lead to additional downward pressure on prices for domestically produced fresh boneless beef.

Facing lower prices for fresh boneless beef in Canada as a result of the large volumes of imports, Canadian slaughterers and boners will be forced to reduce prices in the domestic market or, alternatively, to attempt to export fresh boneless beef to the United States. However, Canadian slaughterers and boners will have difficulty penetrating the U.S. market and will incur increased transaction and transportation costs as they attempt to establish sales and distribution channels for products formerly sold in Canada. Thus, the Canadian slaughterers and boners will likely earn a reduced margin on any sales that they are able to make in the U.S. market. In the case of grinding beef, the situation will be even more acute because Canadian slaughterers and

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51. *Ibid.*

52. Tribunal Exhibit GC-93-001-19; Pre-Hearing Staff Report from Review No. RR-90-006.

53. Tribunal Exhibit GC-93-001-A-14 (Protected), submission of Victor Meats; testimony of Paul V. Gilchrist, transcript, Vol.2, May 12, 1993, at 749.

54. Testimony of Gary Fread, Campbell Soup Company Ltd., transcript, Vol. 3, May 13, 1993, at 794; testimony of Paul V. Gilchrist, Les Aliments Lauzon Inc., transcript, Vol. 2, May 12, 1993, at 765; submission of Edmonton Meat Packing Ltd., Tribunal Exhibit A-10, Vol. 2.

boners no longer have the opportunity to export commingled Canadian and imported product to the United States.

As well as facing reduced revenues due to lower boneless beef prices in Canada, domestic slaughterers and boners will continue to have to compete with U.S. slaughterers and boners for Canadian cull cows and cow carcasses at prices set in the protected U.S. market. The effect of these factors and the reduction in domestic production, given the already weakened condition of the domestic slaughterers and boners, in the Tribunal's view, threatens the continued viability of the remaining slaughterers and boners in Canada.

The Tribunal believes that the slaughterers and boners are important to the overall health and competitiveness of the Canadian cattle and beef industries.<sup>55</sup> Without this sector, the Tribunal questions whether the Canadian cattle and beef industries can hope to compete effectively in the North American market, especially in light of the level of protection afforded to the U.S. cattle and beef industries under U.S. law.<sup>56</sup>

### **(ii) Cattle Producers**

The effects of lower prices caused by imports of boneless beef from countries other than the United States will be passed through from the slaughterers and boners to the cattle producers. Once the margins of slaughterers and boners are reduced to the point that they would have to forego sales because of lack of profits, the production of boneless beef would be reduced and, hence, the demand for domestic cattle would decline.

With a declining demand for domestic cattle, a situation of excess supply and capacity in the Canadian market would result, and prices and returns to the cattle producers from domestic sales would fall. In particular, cow-calf and dairy operations would receive lower prices for their cull cows and bulls in the domestic markets and this would reduce their profit margins.

As cattle prices in the protected U.S. market will not be affected by the increased imports of boneless beef into Canada, declining domestic demand and cattle prices in Canada will induce Canadian cattle producers to export more cattle to the United States because of higher prices in that country. As Canadian cattle producers export more cattle to the United States, the return earned on these cattle will decrease proportionately to the distance that they have to be transported to market.

### **(iii) Conclusion**

On the basis of the foregoing analysis, it is the Tribunal's assessment that there is a threat of serious injury to Canadian slaughterers, boners and cattle producers caused by the increased imports of boneless beef originating in countries other than the United States. The Tribunal believes that this threat is imminent and foreseeable, as these imports are likely to continue at abnormally high levels unless restrictions in Canada are imposed.

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55. Testimony of Darcy Willis, Alberta Ministry of Agriculture, transcript, Vol. 3, May 13, 1993, at 887-89.

56. *The Meat Import Act of 1979*, 19 U.S.C. 2253 and the *Agriculture Act of 1956*, 7 U.S.C. 1854, s. 204.

The Tribunal is also of the opinion that Canadian slaughterers, boners and cattle producers face an additional threat from any trade restrictions that the United States may impose as a result of any increase in the volume of Canadian beef or cattle that may be exported to that country. The Tribunal notes that the U.S. government has expressed its determination, in the past, to enforce its VRAs with Australia and New Zealand and to ensure that these VRAs are not circumvented. If large volumes of Canadian beef or cattle are diverted into the United States as a result of increased imports into Canada of Australian and New Zealand boneless beef, it does not strain credulity to assume that the U.S. government may take some form of restrictive action against imports from Canada. There are many options available, including action under paragraph 2 of Article 704 of the FTA, additional customs or inspection measures, emergency action or countervail remedies.

In light of the foregoing, the Tribunal concludes that continued imports of boneless beef from countries other than the United States, at levels experienced during the first four months of 1993, threaten to cause serious injury to Canadian producers of like or directly competitive products.

## **8. ADVICE ON APPROPRIATE REMEDY**

As the Tribunal has found that the increased imports of boneless beef from countries other than the United States are threatening to cause serious injury to Canadian producers of like or directly competitive products, the Tribunal has also been asked to provide advice as to the most appropriate remedy to address the situation, taking into account Canada's international rights and obligations under bilateral and multilateral trade agreements.

In recommending an appropriate remedy, the Tribunal has been guided by two important considerations. The first is that the remedy should be no more than sufficient to prevent the threat of serious injury to Canadian slaughterers, boners and cattle producers from occurring. The second is that any restrictions imposed should not unnecessarily limit the flexibility of the traditional supply of imports of boneless beef to the downstream processors, retailers, and the hotel and restaurant industry. The Tribunal believes that there is a delicate balance to be achieved in recommending a remedy that is sufficient to prevent the threat of injury to Canadian slaughterers, boners and cattle producers, while not restricting the historical levels of imports required by downstream further processors and users.

In light of these considerations, the Tribunal suggests that the most appropriate remedy would be for the Governor in Council to impose an annual tariff rate quota on imports of boneless beef originating in countries other than the United States for a period of three consecutive years, effective May 1, 1993, and ending on December 31, 1995. In each consecutive calendar year, a quantitative restriction would be placed on boneless beef from countries other than the United States imported under tariff item Nos. 0201.30.00 and 0202.30.00, in an amount of 72,021 tonnes per year, that would be subject to the applicable most-favoured-nation (MFN) tariff rate of 4.41¢/kg. The subject goods imported in excess of that amount in those calendar years would be subject to an additional tariff of 25 percent ad valorem.

For the calendar year 1993, the tariff rate quota would be applicable from May 1, 1993, and would be set in an amount of 48,014 tonnes.<sup>57</sup> In subsequent years, the Government of Canada may want to consider adjusting the tariff rate quota recommended above by taking into account any changes in the U.S. VRAs with Australia and New Zealand, as well as any changes in domestic market supply based on the cattle cycle.

In the proposed tariff rate quota, the quantitative restriction of 72,021 tonnes is based on the average quantity of the subject goods imported from countries other than the United States over a previous representative period, i.e. the years 1990-92 inclusive.<sup>58</sup> The quantities of imports of boneless beef from countries other than the United States for that period were as follows.

Table 2				
BONELESS BEEF IMPORT VOLUMES				
	(tonnes)			
	1990	1991	1992	Average 1990-92
Australia	31,344	36,248	48,556	38,716
New Zealand	23,602	24,365	19,680	22,549
Nicaragua	15,606	10,568	6,039	10,738
Other	37	0	18	18
Total	70,589	71,181	74,293	72,021

Source: Tribunal Exhibit GC-93-001-22, Pre-Hearing Staff Memoranda, Vol. 1C.

In the Tribunal's view, imports into Canada in excess of the 1990-92 average level will likely cause serious injury to Canadian slaughterers, boners and cattle producers if such imports are sold at prices appreciably below the price of Canadian boneless beef and the landed U.S. price for imports of boneless beef from Australia and New Zealand. The additional surtax of 25 percent ad valorem represents the approximate difference in price between landed Canadian and U.S. prices of imports of boneless beef from Australia and New Zealand for the week ending May 1, 1993.<sup>59</sup> The Tribunal considers a surtax of 25 percent ad valorem on quantities of the subject goods imported in excess of 72,021 tonnes in a given calendar year to be no more than

57. This amount is the annual tariff rate quota of 72,021 tonnes prorated for eight months.

58. It is normal GATT practice to use, as a previous representative period, a three-year period prior to the time when the quantitative restriction is imposed, as was affirmed by the GATT Panel report on EEC Restrictions on Imports of Apples from Chile, GATT, Basic Instruments and Selected Documents, Twenty-Seventh Supp. at 113.

59. See Appendix 6 of this report.

necessary to prevent the serious injury threatened by a continuing surge in the subject imports at excessively low prices.

The Tribunal believes that the level of boneless beef imports allowed into Canada at the MFN tariff rate in 1993 should not be less than the historical levels for the previous representative period, which is 1990-92. At a lower level, there would be a risk of causing economic difficulties to downstream processors and users which rely on these imports. The Tribunal heard a great deal of evidence that imports of boneless beef from countries other than the United States have become, over the years, an important and essential part of the business of the further processors, retailers, and the hotel and restaurant industry.

The Tribunal recommends that this tariff rate quota be allocated among all of the countries having a substantial interest in supplying boneless beef, except for the United States, in a manner consistent with Article XIII of the GATT. Under that article, Canada may seek agreement with respect to the allocation of shares in the quota with all other countries having a substantial interest in supplying the subject goods. As the Governor in Council has excluded boneless beef imported from the United States in the terms of reference for this inquiry, this remedy would not apply to imports of the subject goods from the United States. If such agreements as to allocation are not reasonably practicable, Canada may allot to each substantial supplier country a share based on the proportion of the total quantity or value of imports of the product supplied by such country during a previous representative period. The Tribunal notes that, over the previous three years, from 1990 to 1992, Australia, New Zealand and Nicaragua were countries with a substantial supplying interest, i.e. their exports of the subject goods represented 10 percent or greater, on average, of total imports of the subject goods into Canada. Imports from Nicaragua, however, dropped to 8 percent in 1992 and appear to be declining in 1993, as a result of a relaxation of restrictions on imports of beef from Nicaragua into the United States. This should be taken into consideration by the Government of Canada in determining which countries have a substantial interest in exporting boneless beef to Canada.

The Tribunal notes that the *Meat Import Act*, subsection 60(1) of the *Customs Tariff* and section 5 of the *Export and Import Permits Act* are available to implement such a tariff rate quota.

The proposed remedy would be consistent with the GATT if all of the conditions of Article XIX of the GATT are fulfilled.<sup>60</sup> Article XIX is an exception to the general obligations contained in other provisions of the GATT. It allows a contracting party to suspend an obligation or to withdraw or modify a concession (which means that it can impose an import restriction or an additional duty or surtax) on imports of a product where that "product is being imported ... in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products." Article XIX allows a contracting party to suspend any "obligation in whole or in part or to withdraw or modify the concession." This extends to GATT obligations other than tariff concessions, including Canada's minimum global access commitment.

The Tribunal is of the view that the proposed remedy would be consistent with Article XIX of the GATT, as such action would be taken pursuant to the Tribunal's assessment

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60. For further analysis of Canada's international rights and obligations, see Tribunal Exhibit GC-3-001-29, Vol. 1C.

in this report that the increased imports of boneless beef from countries other than the United States threaten to cause serious injury to Canadian producers of like or directly competitive products. In addition, the remedy proposed is designed to be imposed only for the time and to the extent necessary to prevent the threat of serious injury. Before imposing such a restriction, the Government of Canada will have to notify and consult with the governments of exporting countries with a substantial interest in supplying boneless beef to Canada with a view to coming to mutually acceptable agreements under paragraph 3 of Article XIX of the GATT.

With respect to Canada's bilateral obligations, the Tribunal is of the view that the proposed remedy would be consistent with the FTA. Indeed, Article 704 of the FTA prohibits Canada from imposing restrictions on meat imports from the United States, except where necessary to prevent frustration of a restriction that Canada has already taken against meat imports from third countries and where the United States had not taken equivalent action. In our view, it is within the purpose and intention of the FTA to exclude imports from the other party in a global emergency action or safeguard action involving imports from third countries.



## **APPENDICES**

## APPENDIX 1

### ORDER-IN-COUNCIL

P.C. 1993-760

16 April 1993

WHEREAS importations into Canada of boneless beef at prices appreciably below domestic prices for boneless beef have been increasing significantly, in particular since the entry into force on January 1, 1993, of arrangements by Australia and New Zealand to voluntarily restrain their exports of boneless beef to the United States;

AND WHEREAS it is desirable, in light of the rapid increase in importations of boneless beef into Canada, that an inquiry in respect of injury arising from the importation of boneless beef be conducted expeditiously;

THEREFORE, HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Finance, the Minister of Agriculture and the Minister of Industry, Science and Technology and Minister for International Trade, pursuant to section 20 of the *Canadian International Trade Tribunal Act*, is pleased hereby to direct the Canadian International Trade Tribunal

- (a) to forthwith inquire into the importation of boneless beef by
  - (i) providing an assessment of whether the importation of boneless beef, originating in countries other than the United States, is causing or threatening to cause serious injury to Canadian producers of like or directly competitive products, and
  - (ii) in the event that the importation of boneless beef originating in countries other than the United States is found to be causing or threatening to cause serious injury to Canadian producers of like or directly competitive products, providing advice as to the most appropriate remedy to address the situation, taking into account Canada's international rights and obligations under bilateral and multilateral trade agreements; and
- (b) to submit its report within six weeks after the date of this Order.

## APPENDIX 2

### LIST OF WITNESSES

<b>Company/Association Witnesses</b>	<b>Counsel/Representative</b>
<b>Canadian Cattlemen's Association</b> David Andrews Dennis Laycraft Chris J. Mills Al Rogerson	Peter Clark and Ken Besharah Grey, Clark, Shih and Associates, Limited
<b>Lakeside Packers Ltd., A Division of Lakeside Farm Industries</b> Al Rogerson	Peter Clark and Ken Besharah Grey, Clark, Shih and Associates, Limited
<b>Canadian Meat Council</b> Robert L. Weaver Al Rogerson Doug E. Miller (Western Canadian Beef Packers Ltd.) Wilhelm Huber Sr. (Piller Sausages & Delicatessens Ltd.) David N. Pigott (Maple Leaf Prepared Meats) John E. Lauer (J.M. Schneider Inc.)	G.P. (Patt) MacPherson, Brian J. Barr, Suzette C. Cousineau and Naila Elfar Corporation House
<b>J. M. Schneider Inc.</b> John E. Lauer	
<b>Campbell Soup Company Ltd.</b> Gary L. Fread Donald Bateman	G.J. Arnold Vice President and Chief Financial Officer Campbell Soup Company Ltd.
<b>Ronald A. Chisholm Limited</b> Jeffrey S. Ryley	Richard S. Gottlieb and Robert Bertrand, Q.C. Gottlieb & Pearson
<b>Canadian Meat Importers Committee of the Canadian Importers Association Inc.</b> Donald McArthur Bruce Reynolds (L.N. Reynolds Co. Ltd.) Douglas R. Robertson (Robertson International Inc.) Jeffrey S. Ryley (Ronald A. Chisholm Limited) Michael S. Thomas (MTD Trading International) William Fenton (Couprie, Fenton Inc.)	Richard S. Gottlieb, Robert Bertrand, Q.C., and Darrel H. Pearson Gottlieb & Pearson

Processors Supporting Canadian Meat  
Importers Committee:  
Scott R. Zies (Cardinal Meat Specialists Limited)  
Anton T. Donkers (Primo Deli Foods)  
Robert M. Vistorino (Victor Custom Quality Meats)  
Karen Janzen (J.D. Sweid Ltd.)

Expert Witness:  
Alan M. Boswell (independent analyst)

**Australian Meat & Live-stock Corporation**  
Michael Hayward  
Frances Cassidy  
John S. Nalivka (Sterling Marketing Inc.)

Peter A. Magnus and  
David K. Wilson  
Osler, Hoskin & Harcourt

**New Zealand Meat Producers Board**  
Laurie I. Bryant

Edward J. Farrell  
Bronz & Farrell

**CBF-Irish Livestock & Meat Board**  
Owen Brooks

Gordon B. Greenwood  
Maclaren Corlett

**Canadian Council of Grocery Distributors**  
Max M. Roytenberg  
Michel Murphy (Provigo Distribution Inc.)  
Joseph L. Gariup (National Grocers Co. Ltd.)

Max M. Roytenberg  
Vice-President  
Canadian Council of Grocery  
Distributors

**Restaurants Au Vieux Duluth Inc.**  
Peter Kourkoulis  
Peter Papadopoulos

Darrel H. Pearson  
Gottlieb & Pearson

**Hub Meat Packers Ltd.**  
Rubin Maklin

Rubin Maklin  
Hub Meat Packers Ltd.

**Muller's Meats Limited**  
Henry Muller

Henry Muller  
Muller's Meats Limited

**T. Lauzon Ltée**  
Paul V. Gilchrist

Luc Martineau  
Langlois Robert

**Alberta Agriculture Trade Policy Secretariat**  
Darcy Willis

**Agriculture Canada**  
Carol Smith-Wright  
H. Bruce Huff  
I.G.A. Kirk

## **APPENDIX 3**

### **COMPANIES FILING SUBMISSIONS AND QUESTIONNAIRE RESPONSES BUT NOT APPEARING BEFORE THE TRIBUNAL**

AFFCO New Zealand (Canada) Limited  
Australian Government  
Australian Meat Exporters Federal Council  
Blue Star North America Ltd. and Columbus Line (Canada) Ltd.  
Burns Meats, A Division of Burns Foods (1985) Limited  
Canadian Restaurant and Foodservices Association  
Canworld Foods Ltd.  
Cattle Council of Australia  
Centennial Food Corp.  
Coaspac Meat Ltd.  
Deepsea Marine Services Inc.  
Delstar Foods Inc.  
Eastern Meat Purveyors Ltd.  
Edmonton Meat Packing Ltd.  
Export Packers Company Limited  
Freybe Sausage Ltd.  
G&H Marketing Enterprise Ltd.  
Gainers Inc.  
Grimm's Finest Sausage  
Intercity Packers Ltd.  
Intercontinental Packers Limited  
J&L Beef Ltd.  
Leader Packers  
Les Aliments Mello Inc.  
Les Spécialités MB  
Lucerne Foods Ltd.  
M&M Meat Shops Ltd.  
MacGregors Meat & Seafood Ltd.  
Maple Leaf Foods International  
Morrison Lamothe Inc.  
National Meats Inc.  
New Zealand Government  
Northam Food Trading Co.  
Provisioners Maritimes Limited  
Quality Meat Packers Limited  
Seaway International Foods Limited  
Thomas J. Lipton Inc.  
Weddel Limited  
Wellington Produce Ltd.  
Westbrook Trading Co. Ltd.

# APPENDIX 4

## TARIFF ITEMS AND RATES OF DUTY BONELESS BEEF

Tariff Item	SS	Description of Goods	1993		
			BPT	MFN	US
02.01		Meat of bovine animals, fresh or chilled.			
0201.30.00		- Boneless	4.41¢/kg	4.41¢/kg	Free
	20	-----Other, processed			
	30	-----Other, forequarter			
	40	-----Other, hindquarter			
		-----Other:			
	91	-----Brisket			
	92	-----Chuck			
	93	-----Rib			
	94	-----Hip			
	95	-----Loin			
	99	-----Other			
02.02		Meat of bovine animals, frozen.			
0202.30.00		- Boneless	4.41¢/kg	4.41¢/kg	2.2¢/kg Free in July 1993*
	20	-----Other, processed			
	30	-----Other, forequarter			
	40	-----Other, hindquarter			
		-----Other:			
	91	-----Brisket			
	92	-----Chuck			
	93	-----Rib			
	94	-----Flank			
	95	-----Hip			
	96	-----Loin			
	99	-----Other			

\* Proposed.

## BONELESS BEEF IMPORT VOLUMES

1991 - April 20, 1993  
(000 kg)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Year
<b>1991</b>													
Australia	2,446	2,064	1,372	1,917	1,959	3,495	3,847	4,652	3,235	3,847	4,710	4,342	37,885
New Zealand	2,513	1,439	2,200	1,985	2,284	2,709	3,135	3,380	2,417	1,121	540	1,153	24,876
Nicaragua	2,454	1,311	1,695	1,218	593	854	258	18	204	646	800	1,101	11,150
Sub-total	7,412	4,815	5,266	5,120	4,835	7,058	7,239	8,050	5,855	5,614	6,050	6,596	73,911
United States	4,136	3,048	3,758	3,670	4,030	4,399	4,574	3,747	4,872	5,194	4,456	4,754	50,637
Total	11,548	7,862	9,024	8,790	8,865	11,457	11,814	11,797	10,727	10,808	10,505	11,350	124,548
<b>1992</b>													
Australia	3,031	1,627	2,136	4,830	4,159	4,129	4,464	6,118	6,485	5,461	4,313	3,167	49,921
New Zealand	1,586	1,257	2,131	2,625	2,478	3,364	2,370	1,604	619	466	304	1,373	20,175
Nicaragua	1,277	861	1,192	1,241	808	404	106	17	0	65	33	116	6,119
Sub-total	5,893	3,745	5,458	8,695	7,445	7,897	6,940	7,738	7,105	5,992	4,650	4,656	76,215
United States	4,722	3,926	4,056	3,860	4,336	4,447	5,073	4,348	4,351	4,287	4,781	5,157	53,344
Total	10,616	7,671	9,514	12,555	11,781	12,345	12,013	12,086	11,456	10,279	9,431	9,813	129,559
<b>1993</b>													
Australia	2,695	3,228	10,902	8,802									25,627
New Zealand	1,836	1,970	6,537	4,941									15,284
Nicaragua	51	17	52	0									120
Sub-total	4,582	5,215	17,490	13,743									41,031
United States	5,112	4,930	4,712	3,412									18,167
Total	9,694	10,145	22,203	17,155									59,198

Note: (1) Boneless beef defined as the sum of boneless beef 020 and beef trimmings 021.

(2) April 1993 data to April 20.

Source: Agriculture Canada, Meat and Poultry Products Division, Food Production and Inspection Branch, Tribunal Exhibit GC-93-001-28, Vol. 1C.

## APPENDIX 6

### PRICING OF MANUFACTURING QUALITY BONELESS BEEF IN CANADA AND THE UNITED STATES

**1991**  
**(CAN\$/lb.)**

	<u>Canada</u>		<u>United States</u>	
	Domestic <sup>1</sup>	from Australia/N.Z. <sup>2</sup>	Domestic <sup>3</sup>	from Australia/N.Z. <sup>4</sup>
<b>Monthly</b>				
January	1.43	1.44	1.51	
February	1.48	1.44	1.59	
March	1.51	1.43	1.62	
April	1.53	1.47	1.60	
May	1.55	1.49	1.61	
June	1.57	1.57	1.64	
July	1.53	1.55	1.55	
August	1.45	1.46	1.56	
September	1.47	1.42	1.52	
October	1.38	1.42	1.46	
November	1.37	1.42	1.46	
December	1.39	1.41	1.52	
<b>Quarterly</b>				
First	1.47	1.44	1.57	1.49
Second	1.55	1.51	1.62	1.49
Third	1.48	1.48	1.54	1.50
Fourth	1.38	1.42	1.48	1.51
<b>Annual</b>	1.47	1.46	1.56	1.50

1. Canadian domestic spot price, 85-percent chemical lean; F.O.B. Toronto. Prices quoted include duty and freight.

2. Australian/New Zealand spot price, 85-percent chemical lean. Prices quoted include duty and freight.

3. U.S. domestic spot price, 90-percent chemical lean.

4. Australian/New Zealand spot price, 90-percent deferred frozen blended cow; F.O.B. East Coast, The Meat Sheet, Yellow Sheet, National Provisioner, 1993 estimates based on USDA National Car Lot Report.

Source: Canfax.



# **PRICING OF MANUFACTURING QUALITY BONELESS BEEF IN CANADA AND THE UNITED STATES**

**1992  
(CAN\$/lb.)**

	<u>Canada</u>		<u>United States</u>	
	Domestic <sup>1</sup>	from Australia/N.Z. <sup>2</sup>	Domestic <sup>3</sup>	from Australia/N.Z. <sup>4</sup>
<b>Monthly</b>				
January	1.38	1.37	1.49	
February	1.39	1.38	1.55	
March	1.40	1.38	1.56	
April	1.39	1.35	1.48	
May	1.47	1.32	1.52	
June	1.43	1.25	1.44	
July	1.48	1.24	1.43	
August	1.47	1.21	1.49	
September	1.45	1.22	1.47	
October	1.50	1.28	1.54	
November	1.48	1.30	1.55	
December	1.54	1.38	1.62	
<b>Quarterly</b>				
First	1.39	1.38	1.54	1.50
Second	1.43	1.31	1.48	1.42
Third	1.47	1.22	1.45	1.43
Fourth	1.51	1.32	1.56	1.56
<b>Annual</b>	1.45	1.31	1.51	1.48

1. Canadian domestic spot price, 85-percent chemical lean; F.O.B. Toronto. Prices quoted include duty and freight.

2. Australian/New Zealand spot price, 85-percent chemical lean. Prices quoted include duty and freight.

3. U.S. domestic spot price, 90-percent chemical lean.

4. Australian/New Zealand spot price, 90-percent deferred frozen blended cow; F.O.B. East Coast, The Meat Sheet, Yellow Sheet, National Provisioner, 1993 estimates based on USDA National Car Lot Report.

Source: Canfax.

**PRICING OF MANUFACTURING QUALITY BONELESS BEEF IN  
CANADA AND THE UNITED STATES**

**1993  
(CAN\$/lb.)**

	<u>Canada</u>		<u>United States</u>	
	<u>Domestic<sup>1</sup></u>	<u>from Australia/N.Z.<sup>2</sup></u>	<u>Domestic<sup>3</sup></u>	<u>from Australia/N.Z.<sup>4</sup></u>
<b>Monthly</b>				
January	1.61	1.43	1.69	
February	1.69	1.46	1.71	
March	1.58	1.40	1.60	
Week ending May 1	1.63	1.20	1.79	1.59
<b>Quarterly</b>				
First	1.63	1.43	1.66	1.50

1. Canadian domestic spot price, 85-percent chemical lean; F.O.B. Toronto. Prices quoted include duty and freight.

2. Australian/New Zealand spot price, 85-percent chemical lean. Prices quoted include duty and freight.

3. U.S. domestic spot price, 90-percent chemical lean.

4. Australian/New Zealand spot price, 90-percent deferred frozen blended cow; F.O.B. East Coast, The Meat Sheet, Yellow Sheet, National Provisioner, 1993 estimates based on USDA National Car Lot Report.

Source: Canfax.

**APPENDIX 7**  
**TRIBUNAL STAFF**

**I RESEARCH BRANCH**

<b>Director:</b>	Sandy Greig
<b>Managers:</b>	Audrey Chapman John O'Neill Rose Ritcey
<b>Economist:</b>	Ihn Ho Uhm
<b>Statistical Officers:</b>	Taryn Barone Nynon Burroughs Sonia McEachern

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<b>Assistant Registrar:</b>	Janet Rumball
<b>Registration and Distribution:</b>	Claudette Friesen Cathie Richards
<b>Editorial Services:</b>	Manon Carpentier Lynne Assad Monique Henri Guyane Mougeot-Lemay
<b>Document and Information Processing:</b>	Danielle Lefebvre

**III LEGAL SERVICES**

<b>General Counsel:</b>	Debra P. Steger
<b>Counsel:</b>	Shelley Rowe