

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)	
)	Investigation Nos.:
LIVE SWINE FROM CANADA)	701-TA-438
)	(Preliminary)
)	731-TA-1076
)	(Preliminary)

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Friday,
March 26, 2004

Room 101
U. S. International
Trade Commission
500 E Street, SW
Washington, D.C.

The conference commenced pursuant to Notice, at
9:34 a.m., before the United States International Trade
Commission, ROBERT CARPENTER, Director of Investigations,
presiding.

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On behalf of the International Trade Commission:

Staff:

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GEORGE DEYMAN, SUPERVISORY INVESTIGATOR
ELIZABETH HAINES, INVESTIGATOR
ROBIN TURNER, ATTORNEY/ADVISER
BRAD GEHRKE, ECONOMIST AND INDUSTRY ANALYST
JOHN FRY, ACCOUNTANT

In Support of the Imposition of
Countervailing/
Antidumping Duties:

On behalf of the National Pork Producers Council, the
Arizona Pork Council, Georgia Pork Producers
Association, Idaho Pork Producers Association, Illinois
Pork Producers Association, Indiana Pork Producers
Council, Iowa Pork Producers Association, Kentucky Pork
Producers Association, Michigan Pork Producers
Association, Minnesota Pork Producers Association,
Missouri Pork Producers Association, Montana Pork
Producers Council, Nebraska Pork Producers Association,
New York Pork Producers, Inc., North Carolina Pork
Council, Ohio Pork Producers Council, Oklahoma Pork
Council, Pennsylvania Pork Producers Council, South
Carolina Pork Producers, South Dakota Pork Producers
Council, Tennessee Pork Producers Association, Texas
Pork Producers Association, Utah Pork Producers
Association, Virginia Pork Industry Association, and
the Wisconsin Pork Association, as well as a
substantial number of individual producers:

ROBERT W. IVEY, General Manager,
Maxwell Foods, Inc.
JON CASPERS, Owner of Swine Operations
DR. PAUL AMBRECHT, Veterinarian,
Lake City Veterinary Services
DERMOT J. HAYES, Associate Professor,
Iowa State University
STEVE R. MEYER, President, Paragon Economics
BRAD HUDGENS, Georgetown Economic Services

Of Counsel:

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Collier Shannon Scott
Washington, D.C.

In Opposition to the Imposition of
Countervailing/
Antidumping Duties:

On behalf of the Canadian Pork Council and its Members:

EDOUARD ASNONG, President, Canadian Pork Council
KEVIN GRIER, Senior Market Analyst,
George Morris Centre
DON HRAPCHAK, General Manager, SPI Marketing Group
FLORIAN POSSBERG, Chief Executive Officer,
Big Sky Farms, Inc.
MARTIN RICE, Executive Director,
Canadian Pork Council

Of Counsel:

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MICHELE SHERMAN DAVENPORT, Esquire
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THOMAS E. SKILTON, Esquire
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Washington, D.C.

On behalf of HyTek, IC Pork, Maple Leaf Foods, Inc.;
Phoenix AgriTec, Inc.; Premium Pork Canada, Inc.;
Premium Pork Finishing, Premium Pork Finishing II, and
Premium Pork Manitoba:

LARRY FRIESEN, Director, Manitoba Pork Council
Weanling Export District
GREG HOWARD, Vice President and Chief Operating
Officer, Premium Pork Canada, Inc.
ANDREW HOLTMANN, Director, Phoenix AgriTec, Inc.
JASON GOULD, Director of Business Analysis,
Maple Leaf Foods, Inc.
GARY STOTT, Senior Director of Business
Development and Vertical Coordination,
Maple Leaf Foods, Inc.
LANCE MISTELBACHER, Director of Commodity Risk
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In Opposition to the Imposition of
Countervailing/
Antidumping Duties (continued):

On behalf of Baxter Transport, Ltd.; J. Quintaine &
Son, Ltd.; and Zantingh Swine, Inc.:

Of Counsel:

JOEL K. SIMON, Esquire
Serko & Simon
New York, NY

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P R O C E E D I N G S

(9:34 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Countervailing Duty Investigation No. 701-TA-438 and Antidumping Investigation No. 731-TA-1076 concerning imports of live swine from Canada.

My name is Robert Carpenter. I am the Commission's director of investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right: George Deyman, who had to run out of the room for a couple of minutes -- he'll be back in just a minute; on my right, Betsy Haines, the investigator; on my left, Robin Turner, the attorney-adviser; Brad Gehrke, the economist and the industry analyst; and John Fry, the accountant.

I understand that parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business-proprietary information and to speak directly into the microphones. We also ask that you state your name and affiliation for the record before beginning your presentations.

1 Are there any questions?

2 (No response.)

3 MR. CARPENTER: If not, welcome, Mr.
4 Rosenthal. Please proceed with your opening
5 statement.

6 MR. ROSENTHAL: Thank you, Mr. Carpenter.
7 Good morning, members of the ITC staff.

8 I want to give a little overview of what
9 you're going to hear this morning. Obviously, we're
10 at the very beginning stages of this proceeding, and
11 the record has yet to be developed. I want to tell
12 you what our witnesses are going to be talking about
13 and what we expect to see when the record is more
14 fully developed.

15 Our first two witnesses this morning will be
16 hog producers: John Caspers, who is the past
17 president of the National Pork Producers Council; and
18 Bob Ivey of Ivey Farms and general manager of Maxwell
19 Farms. Their testimony will describe the serious
20 difficulties currently being experienced by U.S. hog
21 producers. Throughout the industry, producers, large
22 and small, are losing money. Many have been forced to
23 liquidate their herds.

24 Our witnesses will explain the injury being
25 experienced by the industry and will explain that the

1 injury that they are suffering is not simply the
2 natural consequence of the hog cycle. Dumped and
3 subsidized imports from Canada have increased
4 substantially, and those increased imports are the
5 direct cause of the domestic industry's precarious
6 economic situation.

7 Mr. Caspers's and Mr. Ivey's testimony will
8 be followed by Dr. Paul Ambrecht, who is a
9 veterinarian who specializes in the treatment of hogs.
10 Dr. Ambrecht's testimony will focus on the life cycle
11 of the hog, from birth to the time that it is ready
12 for slaughter. The like product here is all live
13 swine, with the exception of breeding stock. These
14 are the hogs that are raised for the ultimate purpose
15 of producing pork meat.

16 Dr. Ambrecht will also discuss the
17 interchangeability of U.S. and Canadian hogs and these
18 are the same animals and that, really, the deciding
19 factor in a sale is simply supply and price, not the
20 country of origin.

21 Following Dr. Ambrecht's testimony, Dr.
22 Dermot Hayes, an agricultural economist with Iowa
23 State University, will discuss the economics of the
24 hog cycle. As with many agricultural products, in the
25 normal economic situation, hog production goes through

1 expansion and liquidation phases, usually lasting as
2 much as four years. Yet, as Professor Hayes will
3 describe, the last two years have not followed the
4 normal cycle.

5 When prices began to decline in 2001, U.S.
6 producers entered into a liquidation cycle, reducing
7 their herd size. In fact, between 2001 and 2003, U.S.
8 production, as measured by live births, dropped by
9 five percent. In a truly integrated market, we would
10 have expected the Canadian producers to follow this
11 same trend, yet, as Professor Hayes will describe, the
12 Canadians continue to ramp up production, and,
13 unfortunately, forecasts are that production in Canada
14 will continue to increase.

15 Professor Hayes will be followed by Brad
16 Hudgens of Georgetown Economic Services. Mr. Hudgens
17 will discuss the devastating consequences that have
18 occurred because of the Canadian overproduction.
19 Imports of live swine from Canada have steadily
20 increased between 2001 and 2003, resulting in record
21 imports of over seven million hogs. These imports are
22 divided between feeder pigs and slaughter-weight hogs,
23 and they cause injury to all of the hog industry, from
24 farrow to finish operations.

25 Despite having liquidated herds, which

1 should have resulted in profitable pricing, U.S. hog
2 producers have lost money in the last 28 of 33 months,
3 and there is no relief in sight, as Canadian producers
4 continue to ramp up production.

5 The conclusion you will reach, I'm sure, is
6 that the Canadian industry continues to expand,
7 despite the economic signals pointing to contraction,
8 and those Canadian hogs have headed south, literally.
9 Further, the increased supply of Canadian hogs in the
10 U.S. market has caused the domestic industry to head
11 south, figuratively.

12 When the Commission has heard all of the
13 testimony, and you've heard all of the testimony and
14 collected all of the questionnaires and received all
15 of the data, I think you will conclude that there is
16 only one determination to be reached, and that is that
17 this industry has been materially injured by the
18 dumped and subsidized imports from Canada. Thank you.

19 MR. CARPENTER: Thank you, Mr. Rosenthal.

20 Mr. Ince?

21 MR. INCE: Thank you, Mr. Carpenter. Good
22 morning to you and members of the staff. My name is
23 William K. Ince from the law firm of Cameron &
24 Hornbostel, representing the Canadian Pork Council and
25 its members.

1 Almost 20 years ago, the NPPC filed a
2 countervailing-duty petition against live swine from
3 Canada. In 1999, the order resulting from that
4 investigation was sunsetted by the Commerce
5 Department. Here we are again. And even before the
6 sunsetting, the North American hog industry had
7 changed dramatically. Respondents will describe those
8 changes here today to show the Commission that the
9 NPPC's claims of injury from imports in this case
10 cannot stand scrutiny.

11 In the 1984 case, the Commission used
12 economic analyses to determine the effect of imports
13 on U.S. prices, essentially treating swine as a
14 commodity. Imports in that case consisted almost
15 wholly of hogs for immediate slaughter, market hogs.
16 Today, the imports consist of a variety of classes of
17 hogs, with different physical characteristics and
18 uses, not interchangeable, produced in different
19 facilities, sold into different markets, priced
20 differently, and viewed by the industry as different
21 from each other.

22 Our witnesses will describe the growth in
23 trade of weanlings and feeder pigs as distinct from
24 market hogs. They will distinguish sows and boars for
25 breeding from sows and boars for slaughter and from

1 each other. These distinct classes of imports were
2 recognized by the Commerce Department in the reviews
3 of the prior countervailing-duty order. Each class
4 was give its own rate of duty.

5 U.S. imports statistics also acknowledge the
6 distinct classes of imports. For many years, they
7 have broken down the weight categories as those under
8 and those over 50 kilograms, and the over-50-kilogram
9 class is further subdivided into animals for immediate
10 slaughter and those not for immediate slaughter. Last
11 year, the under-50-kilogram class was also divided
12 into three weight categories.

13 These statistical changes are driven by the
14 changes in trade in live swine that have occurred over
15 the past 15 years or more, as you will hear. Now,
16 what is the significance of these changes for the
17 Commission's injury analysis in this case? Imports
18 can no longer be treated as one commodity. Rather,
19 each of these classes has to be examined on its own
20 and a determination made with respect to each.

21 Our witnesses will describe how the trade in
22 weanlings and feeder pigs meets a substantial and
23 growing demand by the same U.S. industry that has
24 brought this case. They will also tell you how
25 imported breeding stock benefits the U.S. industry and

1 why sows and boars for slaughter do not compete with
2 market hogs.

3 Finally, we will show that any increase in
4 market hog imports in 2003 was not only a temporary
5 anomaly but was so small, relative to U.S. production,
6 it could not possibly have had an effect on prices.

7 We feel confident that if the Commission
8 understands these facts, it will come to the
9 conclusion that Petitioners' claims of material injury
10 are meritless and deserve a negative determination.

11 My colleague, Dan Porter, representing
12 Premium Pork, will present another approach to
13 analyzing this case which is equally compelling. We
14 submit that taking either approach should yield a
15 negative determination. Thank you.

16 MR. CARPENTER: Thank you, Mr. Ince.

17 Would the petitioning panel come forward now
18 at this time?

19 (Pause.)

20 MR. ROSENTHAL: Good morning again. Before
21 we delve into our testimony, I want to introduce a
22 couple of other people who I did not mention in my
23 opening statement. These people will be available to
24 answer questions, of course, and, first and foremost,
25 is my colleague at Collier Shannon, Mary Staley; and

1 then Nick Giadonna, who is the international trade
2 counsel to the National Pork Producers Council; and
3 Steven Meyer, who is the president of Paragon
4 Economics. They will all be available to answer
5 questions in addition to the witnesses I mentioned
6 earlier.

7 Just because I want this hearing to be
8 fruitful and interesting, if not entertaining, I can't
9 wait until my rebuttal time to note that I don't
10 believe that Mr. Ince represents the Canadian Weanling
11 Council or the Canadian Feeder Pig Council. He
12 represents the Canadian Pork Council, and you'll hear
13 Ms. Turner and others throughout the course of this
14 day that there is one single industry here. This is
15 not an industry comprised of anything other than hogs,
16 whose ultimate disposition in the world is to become
17 pork. It is a single industry, which you will hear
18 about more this morning. They are not separate
19 industries, as suggested by Mr. Ince.

20 With that, I would like to turn to Mr.
21 Caspers.

22 MR. CASPERS: Good morning. My name is John
23 Caspers, and I operate a nursery-to-finish operation
24 that markets 18,000 hogs annually in Swailville, Iowa.
25 I have operated this business for 28 years.

1 In addition to operating my business, this
2 past year, I served as president of the National Pork
3 Producers Council. I serve on the National Swine
4 Research and Information Center Liaison Committee and
5 the Trade and Swine Health Committees. I have
6 represented the pork industry on the U.S. Meat Export
7 Federation's board of directors, and I currently serve
8 on their executive committee, and I'm also an active
9 member of the Iowa Pork Producers Association and
10 served as their state president in 1990.

11 As the president of the National Pork
12 Producers Council over the past year, I have had the
13 opportunity to speak with many U.S. hog farmers, both
14 large and small, about the serious difficulties that
15 they have been facing. I believe that one of the most
16 direct, and probably most obvious, examples of the
17 injury is the fact that many U.S. hog producers,
18 again, both large and small, have simply gone out of
19 business or in the process of liquidating or selling
20 their hog operations. Some of the most immediate
21 examples that come to mind are Alliance Farms, Bell
22 Farms, Farmland Foods, Heartland Pork, and Sand
23 Livestock Systems. These operations alone represent
24 over 200,000 sows, and there were many other smaller
25 operations that shut their doors.

1 After suffering substantial losses, these
2 companies simply could not continue in the business.
3 Even the U.S. hog producers who have stayed in
4 business are losing money and are struggling to stay
5 in business. While hog prices have tended upwards
6 slightly in the last year, increases in feed and other
7 costs continue to outstrip these minor price
8 increases.

9 Based on my discussions with producers
10 around the country, I am fully expecting that many
11 other producers will also have to cease operation this
12 year, and most producers will continue to suffer
13 losses. Many U.S. producers have cut back their herd
14 size, laid off workers, and cannot make new
15 investments in new equipment and new facilities.
16 Generally, those producers who have increased their
17 own herd size have done so by consolidating operations
18 with other operations that were going out of business.

19 Overall, the U.S. industry has been forced
20 to retrench over the past few years. Indeed, in my
21 own operations, we have not added any new facilities
22 in the last five years and have closed down an 1,100-
23 sow farrowing operation.

24 I also hear from our Canadian friends that
25 they are facing many of the same problems that we are

1 facing here in the United States. The Canadian
2 producers say that their prices are down, that they
3 are losing money, that many farms are in receivership,
4 and that the banks are pulling back financing.

5 In a normal economic cycle, as Dr. Hayes can
6 explain to you more fully this morning, given the
7 severe difficulties that both U.S. and Canadian
8 producers are facing, we would expect that producers
9 would pull back their production. In fact, as I
10 mentioned earlier, many U.S. producers have been
11 forced to either go out of business or cut back their
12 herd size. Yet the Canadian production trends have
13 been just the exact opposite of the U.S. producers. A
14 recent review of the January 1, 2004, pig inventory in
15 Canada shows that the sow herd was up by 3.1 percent,
16 Canadian sow farrowing in the fourth quarter was up
17 over 9 percent, and Canadian farrowing intentions,
18 that is, the producers' intentions to farrow litters
19 of pigs, was up over 6 percent for each of the first
20 two quarters of 2004.

21 In other words, while the Canadians claim
22 that they are facing difficult times, they are
23 continuing to increase their herd size, there has been
24 no throttling back in Canada, and expansion appears to
25 be continuing north of the border. This increasing

1 production has not been coupled with an proportional
2 increase in slaughtering operations in Canada, so
3 there is only one place for these hogs to go, and
4 that's here to the United States.

5 As I just noted, the Canadian, artificially
6 stimulated production comes right here to the United
7 States, creating a significant oversupply in the
8 market. As I know the Commission staff recognizes, an
9 oversupply, and even a small one, in an agricultural
10 market creates a very serious problem.

11 Unlike manufactured goods, hogs cannot
12 simply sit in inventory waiting for a better price to
13 come along. Once a hog reaches its slaughter weight,
14 it must be marketed. Hog producers send their product
15 to market and are price takers. If there is an
16 oversupply, even a small one, the price situation
17 obviously worsens, and all producers are forced to
18 live with the lower price.

19 As I mentioned at the outset, I operate a
20 nursery-to-finish hog operation, marketing 18,000 hogs
21 annually. Some of these pigs have been imported from
22 Canada. The Canadian producers aggressively market
23 their artificially stimulated supply of wean, feeder,
24 and slaughter-weight hogs here in the United States,
25 making them readily available to U.S. producers.

1 These Canadian feeder pigs are no different from the
2 feeder pigs in the United States. So U.S. producers
3 buy the feeder pigs not because of quality differences
4 in the pig but because, at the prices at which these
5 Canadian feeder pigs are offered, it is cheaper to
6 import them than to raise them ourselves.

7 As I will talk about next, I believe these
8 low prices and oversupply have been caused by unfair
9 trading practices, which I believe should be offset so
10 that we can return to normal market conditions.

11 So this situation brings me back to the
12 reason we're here today. As I mentioned earlier, U.S.
13 producers have been cutting back their herd size and
14 have been attempting to respond to economic signals.
15 Yet while the Canadians claim that they are
16 experiencing the same losses and difficulties that we
17 are experiencing, they have not responded to these
18 economic conditions. They continue to increase their
19 production, and they have continued to increase their
20 exports to the United States.

21 As an excess supply of hogs enters the U.S.
22 marketplace, prices are driven downward. If this
23 situation continues, prices will deteriorate to an
24 even greater level, and we will continue to see more
25 and more U.S. producers leave this business, resulting

1 in more and more job losses.

2 The question that remains, then, is why have
3 the Canadians continued to grow their herd size while
4 the U.S. producers have not? I believe the most
5 direct answer is that subsidies are being provided to
6 the Canadian producers. Our U.S. producers rank as
7 one of the most cost-competitive producers in the
8 world. We have extremely efficient and productive
9 operations. We have stayed abreast of the latest
10 technology and advances. In short, we know how to run
11 farm operations smoothly and effectively. Yet we
12 still respond to economic signals so that we can stay
13 in business.

14 The subsidies in Canada have caused the
15 producers there to grow their herd size and have
16 allowed the Canadian producers to stay in business even
17 as they lose money. These subsidies result in
18 overproduction in Canada, which, in turn, results in
19 prices in the United States that are driven downward
20 by excess supply. In addition to subsidy practices,
21 we have also been injured by their dumping practices.

22 Through this action, we are seeking relief
23 so that all operations throughout North America can
24 compete on the same level. I appreciate your
25 attention to my comments, and I'll be happy to answer

1 questions.

2 MR. CARPENTER: Mr. Ivey?

3 MR. IVEY: Good morning. My name is Bob
4 Ivey, and I'm from Goldsboro, North Carolina, and my
5 brother and I have been farming all of our lives, and
6 I've been in the pork business since 1976. Presently,
7 we own a company that supplies hog-breeding stock to
8 farmers across North Carolina, and I'm also general
9 manager of Maxwell Foods, Inc. I'm actively involved
10 in swine production with the Maxwell family and the
11 190 family-owned farms that grow and supply hogs to
12 Maxwell Foods under a contract system.

13 We have about 70,000 sows, which produce
14 about 1.5 million hogs per year, and with an operation
15 this size, we are carefully tracking the industry
16 conditions in our region, nationally, and
17 internationally, to see what effect they will have on
18 us. One crystal-clear trend we've seen is that
19 Canadian imports have been depressing U.S. prices, in
20 many cases, below the cost of production for an
21 extended period of time, and this economic pressure
22 has dramatically reduced the number of U.S. farmers
23 producing hogs. Given the highly efficient nature of
24 the U.S. industry, we should be able to compete with
25 any producer and certainly with the Canadian

1 producers, who face almost exactly the same economic
2 conditions that we face.

3 Many excellent producers I know have used up
4 all their hard-earned equity and have been forced out
5 of business by Canadian imports. Many other farmers
6 are on the verge of shutting down operations or must
7 sell out to just stop the bleeding from these losses
8 that they are incurring. The remaining producers are
9 being forced increasingly into large-scale production
10 operations under contract in order to slash costs to
11 stay in business, even as they continue to lose money.

12 In the past, hog producers would go through
13 business cycles of approximately four years, with two
14 years of up cycle and two years of down cycle. But
15 this cycle in the U.S. industry caused by Canadian
16 imports has now been extended way beyond two years.

17 Last October 2003, I was so concerned about
18 the large number of Canadian hogs imported into the
19 United States and the devastating effect that these
20 imports were having on our industry, that I went to
21 visit farms in Canada. I wanted to understand how the
22 Canadian swine industry could continue producing and
23 exporting the way it did, especially with the U.S.
24 swine-breeding-herd inventory being reduced to such
25 low levels.

1 In Canada, I found that the production
2 incentives there were different from those in the U.S.
3 Canadian producers have a variety of subsidies
4 available to them that enable them to increase their
5 production even when the economic conditions dictate
6 production cuts, and all along, as all of these things
7 occur, wean pigs, feeder pigs, market hogs continue to
8 come, even in the face of these conditions, in record
9 numbers to the U.S.

10 This continuous flow of overproduced
11 Canadian hogs into the United States during the last
12 several years pressured prices here and has extended
13 the hog cycle in the U.S. to over two years of deeply
14 depressed prices. This has put tremendous economic
15 pressure on U.S. hog farms, and, moreover, there has
16 been no sign of a let up in these record amounts of
17 subsidized imports from Canada, which are still
18 increasing and pressuring U.S. producers.

19 I would like to give you just a few examples
20 of how Canadian imports have affected the industry,
21 from my perspective as a U.S. producer. First,
22 numerous small producers with 500 sows and large
23 producers with over 50,000 sows have contacted me
24 directly about liquidating their businesses because of
25 economic pressure on the industry. In addition to

1 those that John mentioned, I also know personally many
2 producers who have gone out of business in our region
3 or liquidated their herds. In most cases, the smaller
4 farms simply go out of business permanently. When
5 larger farms are sold, they may stay in production
6 under new ownership.

7 In our case, Maxwell Foods has reduced sow
8 herd numbers. This, in turn, reduces feeder pig
9 production below what traditionally has been sold to a
10 level that is below what can be finished locally.
11 This is occurring because market prices are so
12 depressed, primarily by the massive amounts of
13 subsidized and dumped Canadian imports. More
14 specifically, in 2002, we sold 172,512 feeder pigs for
15 an average price per head of \$41.27. At that time,
16 the publications I read indicated that the Canadian
17 feeder pig imports to the U.S. for 2002 were about 3.9
18 million head.

19 In 2003, we sold only 91,670 feeder pigs for
20 an average price of \$38.56 per head. This is a
21 decrease in value of 9.34 percent in one year.
22 Meanwhile, our Canadian feeder pig imports to the U.S.
23 for 2003 went up to over 4.9 million head, an increase
24 of 25.3 percent from 2002. And the estimates that
25 I've read for 2004, the imports from Canada, is just

1 under six million weaners and feeder pigs, so,
2 unfortunately, I expect this devastating trend to
3 continue.

4 For the most part, these extra animals are
5 coming to the U.S. because there has not been any real
6 increase in slaughtering by packers in Canada. The
7 only place for these hogs to go is the U.S. market.

8 So, in short, it's a direct result of
9 unfairly traded imports from Canada. Each year, we
10 and others in our industry have been forced to reduce
11 production because we're getting less and less for our
12 hogs.

13 To conclude, I would like to thank you very
14 much for this opportunity to speak to you about the
15 situation. It's of real concern to me and to the rest
16 of the producers that I know.

17 MR. ROSENTHAL: Dr. Ambrecht.

18 MR. AMBRECHT: Good morning. My name is
19 Paul Ambrecht. I am a veterinarian in private
20 practice in Lake City, Iowa. I specialize in the
21 treatment of hogs. I provide veterinary services in
22 the State of Iowa and some surrounding states to
23 various types and sizes of producers. My basic farm
24 that I service is an independent producer, and they
25 have from 50 to 5,000 sows.

1 I grew up on a family farm in Iowa. We
2 raised pigs, we milked dairy cows, and had other
3 livestock. I received my doctorate in veterinary
4 medicine in 1971, and after serving in the U.S. Army,
5 I've been in private practice in Lake City since 1973.
6 I'm a member of the American Association of Swine
7 Veterinarians, several other veterinary groups, and I
8 have been the chair of the Iowa -- Rabies Advisory
9 Committee for the State of Iowa.

10 I would like to explain a little bit about
11 pig production in general and, hopefully, that will
12 help you understand some of the concerns that are
13 being voiced here this morning.

14 For pig production, we're generally talking
15 about the production of pigs for slaughter for meat.
16 While breeding stock is involved in some degree, we're
17 talking about raising pigs for slaughter. There are
18 several steps to that process. Some steps may be
19 combined, and some steps may be separate, and those
20 are, first, we have sows and/or boars or semen to
21 produce the new pig. That pig stays with its mother
22 for several weeks. He is farrowed, he stays with his
23 mother, and then is weaned. That weaned pig, we call
24 a "weaner" or a "weanling," in some cases goes to a
25 nursery where it's fed for an additional five to eight

1 weeks.

2 At the time the pig leaves that nursery, it
3 is called a "feeder pig." It, again, moves to a
4 finishing facility for an additional time period of 16
5 to 20 weeks, where it grows to a weight of 250 or more
6 pounds to be made available for slaughter. In some
7 systems, including even smaller farms, the pig is
8 taken from its mother as a weaner and goes directly to
9 a finishing operation that we would call a "wean-to-
10 finish facility," where the nursery and the finishing
11 is all done in the same building, and the pigs are not
12 moved again.

13 So we've got the production of the pig.
14 It's a weaner. It may move only to a finishing
15 facility, or it may move to a nursery and then on to a
16 finishing facility. These multiple-site production
17 systems are very, very similar in Canada and the
18 United States. These farrow-to-finish operations
19 occur at these different sites.

20 People that work at these facilities are
21 involved with the different types of production, and
22 they participate in these various production
23 operations.

24 Some larger operations own also slaughtering
25 facilities, but these are separate and distinct from

1 the actual production of the pig. Only some farms may
2 operate only a segment of this. There are farms that
3 do only nurseries. There are farms that do only
4 finishing. There are farms that do only farrowing.
5 But in the big scope of things, a pig is a pig is a
6 pig. It doesn't matter whether the pig is a weaner or
7 a feeder pig or a pig that's destined to slaughter;
8 all of them are pigs.

9 The Canadian production processes are very,
10 very similar to what we have here in the United
11 States. However, the increasing number of pigs that
12 are being farrowed and produced in Canada are coming
13 here to the United States as several classes, and the
14 weaner pig and the feeder pig are definitely making an
15 impact.

16 There's no genetic differences between the
17 pigs that we have here in the United States and those
18 raised in Canada. Assuming that the animal is healthy
19 itself, then there is absolutely no reason, other than
20 supply or price, why anybody would choose to sell or
21 transport a pig hundreds to thousands of miles. The
22 animals have basically the same amount of fat and
23 lean, or carcass, composition. They are
24 interchangeable. Again, as I said just a moment ago:
25 A pig is a pig is a pig.

1 They are used for an exact-same purpose. A
2 weaner pig becomes a nursery pig becomes a slaughter
3 pig, or a feeder pig becomes a slaughter pig. Their
4 sole purpose is to become a pig to be used as meat.

5 From my viewpoint, the hog imports that have
6 been coming from Canada compete directly with
7 producers, many of which are clients of mine. In the
8 last 12 months, I have lost 11 independent producers,
9 family farms that raised and had 7,500 sows. They
10 went out of the business not because they were poor
11 producers, not because they were not cost competitive,
12 but because, even under the most efficient conditions,
13 they could not produce a pig for the price of what
14 they were coming over from Canada. They have gone out
15 of business due to these decreasing prices and a lack
16 of profits.

17 I appreciate the opportunity to speak with
18 you this morning, and I'll answer questions during the
19 questioning period.

20 MR. CARPENTER: Dr. Hayes.

21 MR. HAYES: Good morning. I am Dermot
22 Hayes. I am a professor in the economics department
23 and in the finance department at Iowa State
24 University, and I hold a Pioneer Chair in agri-
25 business at Iowa State.

1 I've studied the market for live hogs and
2 pork for more than 20 years and have published
3 academic articles on the U.S. hog cycle and on the
4 swine market in general. As is true for almost all of
5 the economists I work with, I'm a fervent believer in
6 free trade, and I'm a strong and vocal supporter of
7 NAFTA and the WTO.

8 This morning, I would like to provide you
9 with some information about the U.S. market for live
10 swine. First, I would like to discuss the production
11 cycle for live swine, or the hog cycle. I would argue
12 that the most recent 10 years does not represent the
13 historical pattern of U.S. hog cycles.

14 My colleague, John Lawrence, has an
15 excellent presentation that explains how this cycle
16 operates. John is among the top three livestock
17 extension economists in the country. He concludes
18 that, historical, after about a year of profits,
19 producers begin to reduce sow and gilt slaughter,
20 resulting in a year-over-year increase in the breeding
21 herd. This increase in the size of the breeding herd
22 typically lasts about two years, and eventually the
23 additional pork forces prices down. After about a
24 year of losses, producers increase sow and gilt
25 slaughter, resulting in a year-over-year decrease in

1 the breeding herd.

2 Because decisions about production levels
3 are made by many thousands of individuals, there is no
4 precise way to time the hog cycle. Nevertheless, it
5 is safe to say that most expansions have lasted about
6 two years, and most contractions have lasted about two
7 years.

8 John has created an excellent graph to show
9 how the breeding herd has traditionally responded to
10 returns or profits. I have reproduced this figure in
11 the charts you have before you. As you can see from
12 his work, there is an excellent correlation between
13 returns from farrow-to-finish operations and the
14 change in the breeding herd one year later.

15 Hog producers are aware that some periods of
16 losses are to be expected because the periods will,
17 they hope, more than compensate for those losses in
18 the longer term. Traditionally, hog production has
19 been among the most profitable enterprises on U.S.
20 farms because the free market has compensated U.S. hog
21 producers for the additional risks that are specific
22 to their industry.

23 In the period prior to 1993, hog producers
24 earned about 15 to 20 percent, on average, on the
25 money that they invested in new facilities. You can

1 see this by examining Figure 1 and examining the
2 relatively large number of profitable quarters prior
3 to the fall of 1993.

4 In Figure 2, which is the second figure, I
5 have updated the earlier data on returns to pigs sold
6 through February of 2004. I now show this data on a
7 monthly rather than a quarterly basis.

8 Two features stand out when one compares the
9 earlier data with the updated data. First, the
10 overall level of profits is much lower in the updated
11 data. Second, there is no sustained period of profits
12 in the more recent period.

13 In the previous era, periods of positive
14 returns would last as long as three years, but in the
15 more recent period, that is, from 1993 on, there is no
16 single year when profits were continually positive.

17 My colleague, John Lawrence, has researched
18 the recent behavior of the cycle with that for earlier
19 periods, and he has also concluded that the nature of
20 the cycle is now fundamentally different.

21 If you had invested \$100 in pork production
22 in September of 1993 and added to this amount the
23 profit and losses per pig on a farrow-to-finish
24 operation, you would have ended up with a negative
25 \$343 today. Had you done this in the period from

1 January 1991 to September 1993, you would have ended
2 up with a positive \$458.

3 Obviously, pork producers cannot afford to
4 continue in business under very long periods of
5 negative returns. Consequently, the U.S. breeding
6 herd has fallen in almost every year over the past 10
7 years.

8 Figure 3, which you have, shows the size of
9 the U.S. breeding herd from 1984 to 2004 and compares
10 the trend in the U.S. industry with that of Canada and
11 Mexico. It is clear from Figure 3 that cyclical
12 patterns seen in all countries prior to 1994 have been
13 replaced with a pattern of continuous growth in Canada
14 and almost continuous decline in the U.S.

15 As shown in the submission, imports from
16 Canada have increased in every year since 1998,
17 growing from 2.5 million head in 1998 to 7.4 million
18 head in 2003, or by almost 200 percent. Imports in
19 2004 should exceed 8 million head. For comparison
20 purposes, it is useful to remember that the U.S.
21 typically slaughters about 100 million pigs per year.
22 This means that approximately 8 percent of the pigs
23 that will be slaughtered in the U.S. this year were
24 born in Canada.

25 The data show that U.S. producers have

1 reacted rationally to poor market conditions by
2 stabilizing or reducing breeding herd size, but the
3 Canadian hog producers have not reacted in the same
4 manner. According to statistics, Canada's most recent
5 quarterly report of hog inventories, Canada's swine-
6 breeding herd continues to grow in spite of the
7 appreciation of the Canadian dollar, the impact of
8 massive quantities of Canadian-produced beef on the
9 Canadian market due to BSE, or mad cow disease, and
10 the low prices that continue to plague producers on
11 both sides of the border. Indeed, the Canada herd has
12 not posted a year-over-year, quarterly decline since
13 1997.

14 The Canadian hog producers' failure to
15 respond to economic signals is related in part to
16 programs that insulate the Canadian pork industry from
17 market forces. One program that's available in
18 Quebec, called ASRA, guarantees that pork producers
19 will earn a wage equivalent to the average industrial
20 wage, regardless of what happens to market prices.
21 This program works in a very similar manner to the
22 antiquated and unused U.S.-parity program.

23 A second program, a current program called
24 CAIS, or Canadian Agricultural Stabilization
25 program -- the name of this program has changed over

1 the years. The current name is CAIS. In earlier
2 years, it was somewhat different but had a very
3 similar impact. It is available almost everywhere in
4 Canada. It provides Canadian pork producers a way to
5 guarantee that their earnings will not fall below the
6 Olympic average of the past five years.

7 If you consider a two-year, up-and-down
8 cycle, if you are always getting a guarantee that your
9 income will not fall below what it was two to four
10 years ago, and you get the benefits of the up years
11 when the cycle is in up, that is a good way to
12 guarantee your income over a long period of time.

13 These Canadian programs disrupt normal
14 agricultural business cycles, allowing Canadian
15 producers to grow their herd sizes without full
16 exposure to market signals. This results in
17 oversupply that is exported to the United States, and
18 it has disrupted normal agricultural business cycles
19 in this country.

20 In hindsight, it is obvious that NAFTA would
21 function as planned only if policies were harmonized.
22 Given the free trade that was planned with NAFTA, any
23 advantage provided by one government and not by the
24 others will result in a rapid growth of the protected
25 industry. If pork producers in Iowa were guaranteed a

1 profit while pork producers in Illinois were exposed
2 to market forces, then the Illinois pork industry
3 would essentially move to Iowa.

4 The point is that the pork industry is very
5 mobile. This problem has not shown up as clearly in
6 other sectors of agriculture because arable land and
7 grassland cannot be moved. This means that grain and
8 cow calf industries are geographically fixed.

9 Canada imposes very strict production quotas
10 on poultry and on dairy products, and so these
11 industries have not experienced the problems
12 encountered by the U.S. pork industry.

13 The price effects of the subsidized imports
14 from Canada in the U.S. market for live swine are
15 twofold. First, the availability of income guarantees
16 for Canadian growers allows them to sell their product
17 at prices below those that would be acceptable to U.S.
18 producers who do not have similar guarantees. This is
19 true because the Canadian producer does not have to
20 earn a risk premium on funds that have been invested,
21 whereas the U.S. producer must obtain such a premium
22 to justify capital outlays.

23 The second way in which Canadian imports
24 affect U.S. market prices is through the price-
25 depressing effects of increased supply. The U.S.

1 market for live swine is extremely sensitive to
2 changes in supply. While Canadian imports do not
3 represent a huge share of the U.S. market, there share
4 is certainly sufficient to cause significant downward
5 pressure on market prices for live swine.

6 Most economists agree that the flexibility
7 in the U.S. hog market is a negative two to negative
8 four. This means that a one-percent change in
9 supplies offered in the market will result in a price
10 change in the opposite direction of 2 to 4 percent.
11 If Canada exports one million additional animals to
12 the U.S., in the short term, the U.S. market price
13 will be 2 to 4 percent lower than would otherwise have
14 been the case.

15 In sum, U.S. producers are not in the normal
16 downward cycle. Instead, the increased Canadian
17 imports have disrupted the normal cycle, causing
18 injury to U.S. producers.

19 Thank you for allowing me to address you
20 this morning. I would be happy to respond to any
21 questions you may have.

22 MR. CARPENTER: Mr. Hudgens.

23 MR. HUDGENS: Good morning. I am Brad
24 Hudgens of Georgetown Economic Services. My testimony
25 will cover the evidence of material injury suffered by

1 the live swine industry as a result of the unfairly
2 traded imports from Canada.

3 The record clearly shows that the U.S.
4 industry producing live swine is in a state of
5 material injury. U.S. prices declined significantly
6 during 2001 to 2002, resulting in severe operating
7 losses for the domestic industry. Although U.S.
8 prices recovered slightly in 2003, prices remained
9 well below cost. In fact, the Iowa State University's
10 estimated costs-and-return series indicates that the
11 Iowa farrow-to-finish hog producers lost money on live
12 swine during 28 of the last 33 months. These price
13 declines and pervasive operating losses were the
14 result of an oversupply of live swine in the U.S.
15 market brought on by an increase of imports of live
16 swine from Canada.

17 To begin, I would like to give the
18 Commission an historic perspective on breeding herd in
19 both the United States and Canada. In 1998, live hog
20 prices in both the United States and Canada reached
21 record low levels. Since that time, U.S. producers
22 responded to economic signals and reduced the herd
23 size in the United States. The U.S. breeding herd
24 decreased by 3.6 percent during 2001 to 2003, while
25 the Canadian breeding herd increased by 14.2 percent

1 during that same period.

2 In fact, the U.S. breeding herd has
3 increased from earlier year levels in only four
4 quarters since 2001, and those increases have averaged
5 less than 0.5 percent. Over the same period, the
6 Canada breeding her has never declined, and, in fact,
7 has never grown by less than 2.7 percent versus the
8 earlier year levels.

9 Mr. Ivey indicated earlier that Maxwell
10 Foods was forced to reduce its sow herd numbers
11 because of the current depressed prices. A recent
12 trade article reports that Murphy Brown, the largest
13 swine producer in the United States, will remove
14 35,000 sows from its operations by the middle of 2004.
15 To put that in perspective, 35,000 sows account for
16 well over 500,000 head of production during one year.
17 Thus, all of the reduction in the North American
18 swine-breeding herd has been accomplished by U.S.
19 producers.

20 Unlike the U.S., Canadian swine producers
21 receive substantial benefits from federal and
22 provincial governments. Receipt of these benefits
23 disrupts the normal agricultural cycles, allowing
24 Canadian producers to grow their herd sizes regardless
25 of economic conditions. This results in oversupply

1 that is exported to the United States, further
2 disrupting normal agricultural cycles in the United
3 States.

4 As Dr. Hayes testified to earlier, the
5 disruption of the Agricultural cycles has resulted in
6 prolonged periods of the financial losses among U.S.
7 producers.

8 Imports of live swine from Canada grew from
9 5.3 million hogs in 2001 to 7.4 million hogs in 2003,
10 or by 40 percent. Imports have continued to increase
11 in 2004. Newly released import statistics show that
12 imports from Canada in January 2004 were up 48 percent
13 over January 2003. Imports are projected to continue
14 to increase throughout 2004. In fact, a manager from
15 the Respondent firm, Maple Leaf, is quoted in a recent
16 Winnipeg article that "Canada will likely export 10
17 percent more hogs to the United States in 2004 than it
18 did last year, as farmers try to find ways to cut
19 losses."

20 U.S. prices of live swine plummeted from an
21 annual average of \$44.08 per hundred weight in 2001 to
22 \$33.25 per hundred weight in 2002. Although prices
23 have increased slightly in 2003, to \$37.63 per hundred
24 weight, prices have remained below 2001 levels and
25 well below production costs throughout 2003.

1 Although monthly pricing data show some
2 seasonal trends throughout the year, the U.S. prices
3 in 2002 and 2003 were substantially lower than prices
4 in 2001. The major cause of these downward pricing
5 trends has been the oversupply of swine in the U.S.
6 market. Because U.S. producers' herd has declined
7 since 1998, the oversupply is overwhelmingly due to
8 the increase in imports from Canada. Imports from
9 Canada account for virtually all U.S. imports.

10 As Dr. Hayes testified, the inelasticity of
11 the hog market means that the increase of an
12 additional two million hogs in the market has a
13 significant negative effect on U.S. prices, resulting
14 in the industry's poor financial condition and the
15 exit of numerous hog producers from the industry.

16 Respondents will likely argue that the
17 industry's injury was the result of other causes, not
18 from imports from Canada. Respondents may argue that
19 imports from Canada are not a cause of injury to the
20 domestic industry because many of the imports are in
21 the form of feeder pigs. Imports of Canadian feeder
22 pigs have caused injury to the domestic industry
23 because they have directly resulted in the oversupply
24 of live swine in the U.S. market, which is the direct
25 link to the declining prices.

1 Market hogs are slaughtered at about six
2 months of age. Therefore, imports of weaner pigs and
3 feeder pigs enter the slaughter hog market within
4 months of importation. Additionally, farrow-to-feeder
5 operations in the United States have been directly
6 affected by the increase of feeder pigs in the U.S.
7 market. As Mr. Ivey testified, multiple farrow-to-
8 feeder operations have been forced out of business in
9 the last several years due to the increase of feeder
10 pig imports. These operations found it too difficult
11 to compete with the unfairly traded imports from
12 Canada.

13 Respondents may also argue that the market
14 share of Canadian imports is small and, therefore, not
15 a cause of material injury to the domestic industry.
16 As the statute indicates, however, the special nature
17 of commodity agricultural production can result in
18 price sensitivity that is significantly affected by
19 relatively small changes in market share.

20 As Dr. Hayes testified, the U.S. market for
21 live swine is extremely sensitive to changes in
22 supply. Even the difference of a couple of percentage
23 points of aggregate supply can negatively affect
24 prices. The much more significant increase of several
25 million head of swine in the U.S. market can have a

1 detrimental impact on prices.

2 Respondents may also argue that U.S. prices
3 recovered in 2003, even as imports from Canada
4 continued to increase. First, U.S. prices did not
5 recover to consistently profitable levels in 2003.
6 Second, the price increases were the result of U.S.
7 producers adjusting to market conditions. You've
8 heard from several witnesses about the reduction of
9 their herd size over the last year. These reductions
10 did produce some minor price increases in the U.S.
11 market. The prices, however, were still generally
12 below cost because imports from Canada continued to
13 increase.

14 In summary, the domestic industry is in a
15 state of material injury. The primary cause of that
16 injury has been the increase in imports from Canada.
17 The Canadian actions have resulted in price
18 depression, reductions in breeding herd, and dismal
19 financial performance among U.S. producers.

20 I would like to make four brief points
21 regarding threat. First, imports have increased by an
22 unprecedented 40 percent during 2000 to 2003 and are
23 projected to increase by another 10 percent in 2004.

24 Second, the Canadian producers have recently
25 increased their breeding herds. With flat consumption

1 trends for pork in Canada, the excess production of
2 live swine in Canada is most certainly destined to the
3 United States market.

4 Third, the Canadian live swine imports have
5 been sold in the U.S. market at such low prices over
6 the period of investigation that there is the threat
7 that these prices will continue to increase demand for
8 further imports from Canada.

9 And, fourth, many recent reports in the
10 Canadian press have indicated that the level of
11 subsidies given to the Canadian producers is likely to
12 increase significantly in 2004, which will continue to
13 allow Canadian producers to cover losses through
14 subsidies, further promoting overproduction of hogs.

15 So based on the rapid and significant
16 increases in exports to the United States, substantial
17 increases in the breeding herd, and significantly
18 declining prices, the volume of imports from Canada
19 will continue to increase absent an affirmative
20 determination by the Commission. Thank you for your
21 attention.

22 MR. ROSENTHAL: Mr. Carpenter, that
23 concludes our direct presentation. We would be glad
24 to answer any questions.

25 MR. CARPENTER: Thank you. I want to thank

1 the panel very much for appearing here today and for
2 your testimony. We will begin the questions with Ms.
3 Haines from the Office of Investigations.

4 We'll turn now to Ms. Turner from the Office
5 of the General Counsel.

6 MS. TURNER: Unlike Ms. Haines, I do have a
7 number of questions.

8 I would actually like to start with counsel
9 and ask a question regarding the like product. I've
10 got a few other like-product questions, of course, for
11 some of the other panelists, but let me start with
12 either Mr. Rosenthal or Ms. Staley.

13 Let me ask this question. You have proposed
14 that the Commission define a single, domestic, like
15 product consisting of live swine, excluding, of
16 course, USA pure-bred breeding swine, and I want to
17 note that I'm going to first go back to the 1985 case.
18 In the 1985 swine investigation, the scope of
19 investigation included basically the same thing as
20 what you're asking that the like product be defined
21 as. Though, in 1996, Commerce revoked part of that
22 order that was put on in terms of regarding
23 particularly slaughter sows, boars, and weaners, I
24 guess is what we called them here, that was effective
25 in April 1991.

1 The scope in the five-year review thus
2 included something less than what you've got before
3 you now, what you're proposing now. In the 1999
4 review, MPPC contended in that review that the
5 domestic like product should be live swine intended
6 for immediate slaughter. Thus, it didn't indicate
7 that the domestic like product should include the
8 sows, boars, or weaners. Now, I would like to ask you
9 to please explain why you're proposing a different
10 like product now.

11 MR. ROSENTHAL: The essential reason was
12 that there was an accommodation reached between the
13 domestic industry and the Canadian industry at that
14 time as to what was of most immediate urgency, if I
15 could put it that way. It was not the notion that
16 this was not the same domestic industry that filed the
17 original case in the earlier period but simply that,
18 at that particular time, there was essentially an
19 accommodation that we would narrow the scope of the
20 case going forward. But all of the factors that one
21 looks at in defining what a domestic industry is
22 comprised of have not changed since the mid-1980's
23 when the original case was filed.

24 MS. STALEY: I agree with what Mr. Rosenthal
25 said. Our definition of the industry has not changed

1 since that time. That had to do with other
2 arrangements that have been made, but our definition
3 of the like product of the domestic industry has
4 remained the same.

5 MS. TURNER: In the changed-circumstance
6 review, then, in 1996, I believe it was, which was
7 before Commerce, were you proposing that the scope be
8 changed, or were you proposing that it not be
9 changed?

10 MR. ROSENTHAL: I'm trying to recollect now
11 the entire process. At one point, there was an
12 exclusion or Commerce began looking at sows and boars
13 separately, as I recall, and I think Commerce then
14 regretted that decision and decided that it should not
15 be separating sows and boars from slaughter hogs and
16 decided that it wanted to do things differently.
17 There has been a fair number of twists and turns over
18 the years by Commerce and by the Canadian and domestic
19 industries about what the coverage should be like.

20 My suggestion, Ms. Turner, is to really go
21 back to basics here and look at what exactly -- you
22 can start afresh, if you will, and look at what a
23 proper analysis should be of the like product. Should
24 it include, as suggested by Dr. Ambrecht, all pigs
25 except for breeding stock or not? And that's the

1 approach that we believe is the proper approach to
2 take.

3 I think the alternative approach being
4 suggested by the Canadians here leads to utter
5 confusion. You will, to use probably a bad turn of
6 phrase, slice up the industry in a way that is not
7 sensible and not recognizable to the vast majority of
8 the people in the industry because of the way that
9 hogs are produced in the United States. And Dr.
10 Ambrecht tried to explain to you the farrow-to-finish
11 operations and how what you're talking about here is a
12 production process basically having the same product,
13 which is a pig, and where in the production process
14 you choose to concentrate your efforts. Whether
15 you're a totally integrated producer or focusing on
16 one spot or another in it doesn't change the fact that
17 it is the same like product.

18 MS. TURNER: My question -- I understand
19 your argument about the industry, and I'll get to
20 actually Respondents this afternoon in terms of some
21 of their questions about that. I'm not really asking
22 about the dividing up.

23 I'm trying to get a little more at why, to
24 some degree, you're proposing a different like product
25 now than what you were proposing at the time of the

1 Commission's review in 1999 because the fact is, is
2 when the Commission, as you're well aware, defines a
3 like product, it does not have to be the exact same
4 thing as the scope. It can be broader than what the
5 scope is, and, thus, I find that I'm just a little
6 confused by why, in 1999, you weren't also proposing
7 that it should be all swine as opposed to just being
8 swine for immediate slaughter.

9 MR. ROSENTHAL: I will go back and look,
10 since we were representing the industry at that point,
11 I'll go back and look at the documents that we had to
12 try to elucidate further on that. My recollection,
13 though, is that, over time, there were certain
14 accommodations made in the interest of peace and
15 harmony, so to speak, between segments of the North
16 American industry, and my recollection is that was
17 part of what was done. But rather than speculate
18 further on that, I'll go back and actually look at
19 some documents and get back to you on that.

20 MS. TURNER: That would be fine, if you
21 would put something in the post-conference brief, but
22 I would like you to explain that, if possible.

23 Dr. Ambrecht, my questions actually do
24 follow up on the from farrowing to the slaughter
25 stages and just getting a little better understanding,

1 and you went through a description, but we've heard
2 some different terms. So if I can just try to clarify
3 some things.

4 This industry is new. Though many of the
5 members of this team did cattle together, so we have
6 some understanding of the different stages of
7 development that occur, but the terms are slightly
8 different, so we're trying to get a better
9 understanding.

10 My understanding is that farrowing -- when
11 the pigs are born, from birth to weaning, they are in
12 a farrowing facility usually, and then that's three to
13 four weeks, and they are about 10 to 15 pounds when
14 they are weaned. Is that correct?

15 MR. AMBRECHT: The question is, on a pig,
16 when it gets ready to be weaned, its age, Yes, ma'am,
17 would be 15 to 28 days, and its weight would be eight
18 to 15 pounds. Again, those are fairly common
19 standards of age and weight, which then become the
20 method of exchange, how a pig is priced and its value,
21 et cetera. Those are fairly common things used in the
22 industry today.

23 MS. TURNER: Okay. That's what we're trying
24 to get an understanding of, --

25 MR. AMBRECHT: Yes, ma'am.

1 MS. TURNER: -- is why I'm asking you this.

2 Then the next stage would be -- you had
3 described that many of them go to a nursery, or they
4 can go to a finishing operation when they are weaned,
5 and they are called "weaners" or "weanlings." That
6 would be at the point, as you said, three to four
7 weeks. They would stay there, if it's a nursery,
8 until they are about eight to 10 weeks and about 40 to
9 60 pounds.

10 MR. AMBRECHT: Yes, ma'am. That is correct.
11 Again, from the time a pig is weaned, it can go into
12 one of two methods. One method, a pig weighing eight
13 to 15 or 10 to 15 pounds could go to a wean-to-finish
14 facility. The industry has adapted to reduce the
15 number of movements and mixes and so on, which cause
16 stress on the animal. We have created facilities that
17 allow a pig to be brought in at as little as 10
18 pounds, and it can stay in that one spot all the way
19 through the rest of its life before it goes to
20 slaughter. That would be called a wean-to-finish
21 facility.

22 In many other production systems, it goes
23 from the sow as a weaner to a nursery, and that
24 nursery is then for a number of weeks, five to eight
25 weeks, where the pig would weigh 40, 50, 60 pounds,

1 and then leaves that facility to go to another one, a
2 finisher, until it gets to slaughter weight.

3 MS. TURNER: One question I have, because
4 we've seen described -- I believe, in the petition, I
5 know there was a discussion of the different stages of
6 development and the facilities, and I don't recall
7 exactly which page, but it's 10, 11, or 45 is where
8 this is on in the petition, that there is a discussion
9 of growing facilities as well as finishing facilities,
10 and I'm trying to understand what actually is a
11 growing facility. I understand a finishing facility
12 would be where, after the nursery --

13 MR. AMBRECHT: Surely. In loose terms, it
14 would be, as we just discussed, that in some cases a
15 nursery could be called a grower, and a finisher is
16 where the pig is removed from to go directly to
17 slaughter. Each production system may alter the time
18 spent in each one of the segments. A wean-to-finish
19 building is pretty simple to understand because a pig
20 goes in at 10 pounds; he goes out at slaughter. But a
21 nursery grower facility may take the pig to a
22 different weight. It becomes more complicated,
23 depending on the individual system.

24 MS. TURNER: So a nursery grower is actually
25 -- is that a nursery, or is that something that

1 actually brings it to larger than the 60 pounds?

2 MR. AMBRECHT: It could be. It could be.
3 It depends on the production system, and that's a
4 further discussion, but nursery grower could be one
5 facility, and instead of taking the pig only to 40
6 pounds, the producer may take the pig to 80 or 100
7 pounds. But the pig still will go to a finisher
8 facility.

9 MS. TURNER: Okay. That's actually a key
10 part.

11 MR. AMBRECHT: Yes. The pig would not be
12 sold to slaughter out of a nursery or a grower
13 facility, "slaughter" meaning for consumption, in our
14 general term, of pig meat.

15 MS. TURNER: That's very helpful in terms of
16 actually --

17 MR. AMBRECHT: Thank you, ma'am.

18 MR. ROSENTHAL: Ms. Turner, I think you're
19 getting the impression, a correct one, that it is not
20 as cut and dried, if you will, all of these stages.
21 There is a fair amount of overlap and, really, a lack
22 of clear lines between each of these phases in the
23 life or ultimate death of the pig.

24 MS. TURNER: We, I think, are aware of that.
25 We're just trying to find, though, the terminology

1 that we understand, since we've only had a couple of
2 weeks on this. Certain of us have had more, but most
3 of us have only had a couple of weeks on this as
4 opposed to people who have been involved with this for
5 many, many years.

6 Let me actually ask because this actually
7 gets back probably more to the lawyers or potentially
8 the economists on it. It's a question of discussing
9 at what stage of development a swine becomes a
10 domestic product. What I'm getting at is does the
11 imported weaned and feeder swine become a domestic
12 product, and, if so, at what stage?

13 Also, I would like, and this something that
14 I would like a brief discussion now, but to put more
15 in your post-conference brief, about using the factors
16 that the Commission generally considers in determining
17 whether a firm is a domestic producer and discussing,
18 in a sense, whether operators, such as nursery,
19 growing, and finishing operations, that import pigs,
20 whether, in fact, they engage in sufficient,
21 production-related activities to be included in the
22 domestic industry, and if you could elaborate briefly
23 on that now but more about basically whether, in fact,
24 the imported weaner and feeders, whether those
25 domestic operations actually should be part of the

1 domestic industry.

2 MR. ROSENTHAL: We believe that they should
3 be part of the domestic industry, but the question of
4 origin is a complex and controversial one, and I think
5 it is best saved for the post-hearing brief.

6 MS. TURNER: If, as part of that discussion,
7 you can also bring into it the fact that -- I believe,
8 in the cattle prelim. opinion, that was an issue still
9 when you had Mexico and Canada for the Commission, if
10 you could look at that in terms of it. But part of
11 the issue, of course, here is the fact that you've
12 proposed that the imported weaned and feeder pigs be
13 considered imports, but it sounds like you're also
14 believing that they should be considered domestic
15 product at the time of slaughter, and that's something
16 that as well gets into some of the methodology to be
17 used for calculating market share that was also an
18 issue in the cattle case, particularly even more so in
19 the final cattle case, where the Commission addressed
20 that. If you could also address that.

21 MR. ROSENTHAL: Certainly.

22 MS. TURNER: This would be actually for Mr.
23 Ivey and Mr. Caspers, please, since they are the
24 producers here. I was wondering if your operations
25 produce other livestock or produce other grains and

1 whether you switch between them, and what would be the
2 reasons for switching, i.e., do you produce cattle?
3 Do you produce grain? Do you decide, because the
4 market has turned down, that you move into some other
5 production? If you could provide some explanation of
6 that.

7 MR. CASPERS: In the case of my operation,
8 it's strictly a pig operation, so there is no other --
9 no grain production and no other livestock production.

10 MR. IVEY: In the case of Maxwell Foods, we
11 have a 1,300-head cow herd that produce calves, and we
12 mainly use those to eat the hay that's produced by the
13 waste-management system for the pigs, so that's pretty
14 dependent on the operation and those waste-management
15 plans.

16 MS. TURNER: Do you switch, though? I mean,
17 does the size of the herd of one switch depending on
18 what the market conditions are?

19 MR. IVEY: No. On that herd, they are
20 mainly utilized because it's an efficient way to get
21 rid of the custable hay that's produced. So basically
22 it would be switched more if there was a drought or
23 something like that that caused production to go down,
24 but that doesn't change a whole lot in our systems
25 because the waste is irrigated onto the hay so it

1 stays pretty constant.

2 MS. TURNER: Okay. Mr. Rosenthal and Ms.
3 Staley, in the post-conference brief, if you can
4 discuss a little bit about whether, in fact, there is
5 a switch between some of the industry and the amount
6 of time that, in fact, that would have to happen,
7 whether a production cycle of, say, an average of four
8 years, whether, in fact, that's something that's a two
9 year time periods of switching over. Some discussion
10 basically on whether switches happen and how
11 frequently and the time periods that would be
12 involved.

13 MR. ROSENTHAL: We'll certainly address
14 that, but I will signal to you that you're not going
15 to see much of that in this industry.

16 MR. IVEY: The buildings are so heavily
17 specialized that you can't really switch them between
18 the two or other species.

19 MS. TURNER: But would there be a decision
20 to produce less sows if the market is in the down
21 cycle and the prices are so bad and to instead produce
22 more grain or sell some of the grain that you might be
23 using for cows, to instead grow grain that could be
24 used for sale for other markets?

25 Would that be something where your resources

1 would switch?

2 MR. IVEY: Well, in our case that would not
3 be a decision for whether to raise cattle or not. I
4 really couldn't speak for others.

5 MR. ROSENTHAL: This is a very concentrated
6 -- well, I'll let Dr. Meyer respond.

7 MR. MEYER: Thank you, Mr. Rosenthal.

8 As Mr. Ivey pointed out, the facilities for
9 pork production are highly specialized and have become
10 much more specialized as time has progressed. At one
11 time we used to have a lot of very flexible buildings
12 out in pastures that we farrowed our sows in, and
13 those are by and large gone in the United States.
14 These are specialized facilities.

15 Most or the majority of the production in
16 the United States is in specialized pork companies.
17 Mr. Ivey's company does have a cow herd, but that's an
18 ancillary operation that's basically part of the waste
19 management system.

20 Many of the other operators in the United
21 States are the same way. They would not readily
22 switch from one output to another. As a matter of
23 fact, they won't do that.

24 In the midwest, there are some diversified
25 farms that raise grain that raise hogs as well. Some

1 of them have made the decision over the past few years
2 that it is less profitable to raise pigs and gotten
3 out of the pig business completely and now are cash
4 grain operations.

5 Would they get back in? If the conditions
6 were right they might be able to if their facilities
7 were still okay, but if those facilities are worn out
8 it would warrant a significant investment to come back
9 in.

10 The term in our industry is inners and
11 outers. There's not very many of those anymore and so
12 when you have prolonged periods of financial distress
13 if somebody goes out they're out for good in most
14 cases.

15 Now, some will cut back on production or
16 increase, but there's not a lot of flexibility to do
17 that when you have high investment in fixed
18 facilities.

19 MS. TURNER: Thank you.

20 Mr. Caspers, you indicated in your testimony
21 that you in fact I believe had a hog finishing
22 operation. Is it only a finishing operation, or do
23 you have the complete farrow to finishing operation?
24 Could you explain?

25 MR. CASPERS: We have a wean to finish

1 operation.

2 MS. TURNER: But you also indicated that you
3 imported feeder or weaner and feeder pigs from Canada,
4 right?

5 MR. CASPERS: Some of those pigs that we
6 have fed have originated in Canada. That's correct.

7 MS. TURNER: Can you tell me -- you might
8 have said actually your location -- which state you're
9 in?

10 MR. CASPERS: In Swaledale, Iowa. It's in
11 north central Iowa.

12 MS. TURNER: In Iowa. Okay. Are you the
13 importer of record on those pigs?

14 MR. CASPERS: No.

15 MS. TURNER: You're not? Okay. So you're
16 just buying these on the open market. What is the
17 decision? Why do you make the decision? You said
18 something about price in terms of your affirmative
19 testimony, but why have you made the decision to go
20 buy imports as opposed to buy domestic?

21 (Pause.)

22 MR. ROSENTHAL: The colloquy we're having is
23 that since he is not the buyer of the pigs he knows
24 the origin, but he was not involved in the buying
25 process originally. Am I saying that correctly?

1 MR. CASPERS: Yes, that's correct.

2 MR. ROSENTHAL: Okay. I think we'll have to
3 get you some information on that for the
4 postconference brief.

5 MS. TURNER: That will be fine. Actually,
6 if that's the case then what I was going to ask is not
7 only for Mr. Caspers, but actually also if you have
8 other information on that issue from some of the other
9 producers that you represent, which I would like to
10 open the floor as well to Mr. Ivey if this in fact
11 applies to his operation as they buy imported pigs to
12 go ahead and answer the question as well.

13 MR. IVEY: Along those lines --

14 MR. CASPERS: If I could just respond a
15 little?

16 I think basically what we see in the
17 industry, though, is that many producers that purchase
18 those pigs find that it's cheaper to buy those pigs
19 from Canada than it is to raise them themselves, and
20 that's why we've seen this transfer, this increase in
21 the number of imports of those animals into this
22 country.

23 MR. GEHRKE: I guess along those lines also
24 when you submit that information could you also
25 describe for us if there are differences between the

1 purchasing procedures?

2 Are the formulas that you use, that the
3 Canadians use to price those pigs different than the
4 formulas in the contracts that the U.S. producers may
5 be using so we can understand how those pigs are
6 priced?

7 MR. ROSENTHAL: We'll get you that.

8 MS. TURNER: In terms of the response to the
9 question, actually Mr. Ivey I believe was going to
10 respond to whether in fact his operation imported
11 Canadian pigs or not.

12 MR. IVEY: We produced excess pigs in our
13 system. So far we've not imported any pigs, but we've
14 reduced our breeding herd to the point that we didn't
15 want to produce these excess feeder pigs because we
16 were losing so much money on them.

17 If we have a disease problem or something
18 like that we don't have that cushion anymore so we
19 would consider producing pigs or buying pigs to keep
20 our facilities going if we ever shoot that goal from
21 anywhere -- Canada or locally, wherever they would be
22 available.

23 MS. TURNER: But your operation doesn't buy
24 pigs at all, at this point in time does not buy pigs
25 at all, where I guess Mr. Caspers' operation does buy

1 pigs.

2 MR. IVEY: Right. That may change in the
3 future, but as of today we have not purchased any pigs
4 from outside our system.

5 MS. TURNER: Okay. Thank you.

6 Mr. Rosenthal and Ms. Staley, my next
7 question is something I'm sure you've anticipated, but
8 it has to do with the related parties issue. Thus, if
9 you can in the postconference brief discuss the issue
10 of whether in fact these imports and the facilities
11 that are in fact importing these, whether in fact they
12 should be excluded from the domestic industry as a
13 related party and the reasons why they should be kept
14 in and the reason why they're importing.

15 I'm sure you're well aware of the factors
16 that the Commission looks at. If you would please go
17 through those in your postconference brief?

18 MR. ROSENTHAL: Certainly.

19 MS. TURNER: I'll change to a completely
20 different topic here, and that has to do with the use
21 of publicly available data.

22 As the Commission in this case is generally
23 using publicly available data regarding the domestic
24 industry and imports obtained from public sources,
25 including USDA and Customs, what we'd like to do is

1 provide you an opportunity to indicate to us, and
2 there was some of this in the petition, but I'd like
3 to give the opportunity again to comment regarding
4 whether you agree or disagree with the Commission's
5 use of such data sources and to elaborate if you do
6 disagree that certain of the sources are not
7 appropriate or not as accurate as others, to please
8 discuss those in detail and why you find one would be
9 more accurate than the other in your postconference
10 brief.

11 Brad?

12 MR. HUDGENS: We'll do so, but we do agree
13 that publicly available data from USDA is appropriate
14 in this analysis. We've detailed in our chart in the
15 petition which data we used and how that was
16 consistent with past investigations. We would feel
17 comfortable using that similar data in this
18 investigation as well.

19 MS. TURNER: Thank you.

20 MR. ROSENTHAL: You won't be surprised to
21 learn that that's also going to affect how we answer
22 the related party question.

23 MS. TURNER: I wouldn't be surprised, but
24 I'd still like to have the response.

25 A question on the official import

1 statistics, and this actually deals with the breakouts
2 in the official import statistics and the accuracy of
3 in a sense using the official import statistics.

4 You've got in the petition Injury Exhibit 1
5 -- I believe it's also one of the general exhibits
6 -- is the breakout of swine. It's the official import
7 statistics breakouts. There is a category there of a
8 breakout of swine weighing 50 kilograms or what would
9 be 110 pounds or more imported for immediate
10 slaughter.

11 Now, I guess our question is since swine
12 generally are not slaughtered until they reach the
13 weight of 260 pounds, we ask, first of all, whether
14 you consider the official import statistics to be
15 accurate, and can you discuss whether this category
16 also includes swine that are feeders, or does it only
17 include the swine between 110 and 260 pounds, or
18 whether it only includes swine that are for immediate
19 slaughter?

20 The last part of that is if it only includes
21 swine for immediate slaughter then what about feeders
22 that are between 110 and 260 pounds?

23 MR. MEYER: I would be very surprised if
24 there are any animals between 110 -- feeder animals
25 around 110 pounds. It's my impression that the

1 Foreign Ag Service and APHIS have applied the 50
2 kilogram break as kind of a place that's safe of
3 dividing the animals.

4 Typically you don't move animals in within a
5 production system except at 10 pounds, 40 to 60 pounds
6 and then again to slaughter. The only time that you
7 have sales outside of that is in a distress situation
8 where somebody is going out of business and has to get
9 rid of some intermediate pigs.

10 The 110 pounds, the 50 kilogram, is chosen
11 so that it's high enough that it catches all the
12 feeders, and it's low enough that it doesn't catch --
13 that it also catches all the slaughter hogs on the top
14 side. There's not animals that move in that
15 intermediate. The only ones that would move in that
16 intermediate area would be maybe some breeding stock
17 that would come across the border weighing in the low
18 -- 200 pounds or less, somewhere in there.

19 It's kind of a safe break so that it clearly
20 delineates animals for further feeding and animals
21 that go to slaughter.

22 MS. TURNER: There is a category as well I
23 believe, an Other category. It's the last one on the
24 bottom of Exhibit 1 is a category that is Other. If
25 you could look into that? Actually, it's Exhibit 1,

1 Injury Exhibit 1.

2 You can do this in your postconference
3 brief, but discuss what actually you would believe is
4 in that category. That would be helpful.

5 MR. ROSENTHAL: We will do that.

6 MS. TURNER: I have a few more data
7 questions, brief data questions. One is regarding
8 what data the Commission should use, whether it should
9 use data by weight or by head.

10 The swine are at different stages of
11 production. In the Cattle opinion, the Commission
12 looked at both, but they actually made the statement
13 that because cattle were at different stages of
14 production that using data by weight was the better
15 data to use rather than by head.

16 There's a slight difference in this industry
17 partly in that the weight is not going from zero to
18 1,200 pounds. It's zero to 260, so you don't have
19 quite the variation that you might have had there, but
20 if that is an issue.

21 That's something that if you would prefer to
22 actually address that in your postconference brief
23 that would be fine, but we would like you to look at
24 the Cattle opinion, the Cattle final opinion. The
25 Commission has some footnotes where it discusses that,

1 and if you could actually address that?

2 MR. HUDGENS: Okay. We'll do so.

3 MS. TURNER: Thank you.

4 I actually alluded to the other data
5 question I have, and that's about the appropriate
6 methodology for calculating market share. This also
7 has to do with the fact that you've got imports at a
8 different stage versus the slaughter and when they
9 actually become a domestic product or not and then
10 what you would do with the market share calculations.

11 I believe it's actually the final Cattle
12 opinion at Footnote 102 actually discussed what the
13 Commission did in that case and what all the parties
14 had argued. If you can take a look at that and
15 actually also discuss that in your postconference
16 brief for me?

17 MR. HUDGENS: We will

18 MS. TURNER: Thank you.

19 I have a few very brief pricing questions.
20 Our economist/industry analyst will actually probably
21 ask you some more specific ones, but I want to just
22 get a general sense of the market first.

23 My first question, and it is maybe going to
24 sound very basic and non-informed, but it's something
25 that I also want to get this on the record is

1 determining whether there is a national market for the
2 price of swine.

3 MR. MEYER: There have been a number of
4 studies done over time on the concentration issues in
5 the livestock and meat industry, and in all of those
6 that I'm aware of they have determined that the market
7 for pork and hogs is a national market.

8 I would refer back to the Packers and
9 Stockyard study that Mr. Gehrke is I'm sure familiar
10 with that was completed in 1996, a large study, a
11 number of economists, and they concluded it is a
12 national market.

13 I'm not aware of any that have concluded
14 regional independent markets for hogs or pork in the
15 United States.

16 MS. TURNER: Are there, though, some primary
17 feeding areas that in fact drive the price for the
18 national market, say Iowa since it's a large --

19 MR. MEYER: Yes. The Iowa/southern
20 Minnesota market is the major market in the United
21 States. It's the market that most of the volume is
22 on. Most of the packers are there. It basically sets
23 the price for the entire North American market, not
24 just the U.S. market.

25 If you look at all the other prices, they're

1 usually related in some fashion by transportation
2 costs to that market.

3 MS. TURNER: So would Iowa be the only one
4 that's the primary, or are there two or three in
5 other --

6 MR. MEYER: No. It would be the only one.

7 MS. TURNER: It would be the only one in
8 this industry?

9 MR. MEYER: Right.

10 MS. TURNER: Okay. Are the Canadian market
11 prices driven by the prices in the Iowa market?

12 MR. MEYER: Yes.

13 MS. TURNER: How much time lag is there? Is
14 it more than what's in other secondary markets in the
15 United States?

16 MR. MEYER: No. It's immediate on all of
17 them. I mean, the information sources are such that
18 what happens there today is filtered through all the
19 other markets pretty quickly.

20 The only real exception to that would be
21 formula prices that might base off the weekly average
22 price or something like that. There are some of those
23 used by individual producers or packers.

24 MS. TURNER: Which I think Mr. Gehrke will
25 get in more detail on.

1 MR. MEYER: I think Mr. Gehrke will be
2 pretty familiar with those.

3 MS. TURNER: Well, he also needs to get some
4 of this on the record as well.

5 MR. MEYER: Right.

6 MS. TURNER: Just a followup of a pricing
7 question on that, which I think, Dr. Ambrecht, you
8 might actually be more, but anybody else can answer
9 this.

10 How long is the period when swine generally
11 are at their optimal weight and thus would receive
12 their best quality grades? When they reach 260 or 250
13 to 260, I mean, is it a week that they have to be
14 sold; otherwise it's all of a sudden going to start --

15 DR. AMBRECHT: That's a very good question.
16 The question is how long does a pig stay in its
17 optimum value.

18 MS. TURNER: Exactly.

19 DR. AMBRECHT: Of course, it depends on the
20 packer because each packer has a grid or a best
21 pricing, and that's based on the carcass weight. The
22 pig is gaining two pounds live weight a day and more
23 to produce a carcass that is weighing 186 to 208
24 pounds. A pig is about 74 percent carcass compared to
25 its live weight.

1 You can imagine it doesn't stay in that
2 optimum value very many days. It's almost like a head
3 of lettuce in the sun. If you don't get it under ice,
4 it kind of loses value in a hurry.

5 MS. TURNER: What time period are we talking
6 about though?

7 DR. AMBRECHT: Five to 10 days.

8 MS. TURNER: Okay. Does everybody agree
9 with that time period? Does the industry actually --

10 MR. CASPERS: Yes. That would be pretty
11 accurate, but, as Paul mentioned, it varies by packer.
12 Some have narrower windows or want a lighter pig, some
13 a heavier pig, but it varies.

14 Once you hit that prime weight then it's a
15 very short period of time before they're no longer
16 within that window. A producer would suffer a
17 significant discount on the price if those pigs don't
18 come into that weight range that the packer desires.

19 MR. IVEY: Typically in our system when we
20 market the finishing animals it's over a three to four
21 week period and usually takes about that long to get
22 them out by the weight ranges that we're talking
23 about.

24 I want to go back to your question --

25 MS. TURNER: Sure.

1 MR. IVEY: -- earlier on buying and selling
2 pigs. I would like to answer that, be one of the
3 producers to answer that in writing, because we have
4 purchased some pigs recently because we were a
5 producer of feeder pigs, but because of the pressure
6 of reducing our numbers we overshot that so now our
7 facilities are empty because our production wasn't as
8 it should.

9 I want to be sure that you understand that
10 we were an exporter of feeder pigs, and we reduced our
11 herds. Then there's a fine line there if you
12 overshoot it. Then you have to have some pigs from
13 somewhere to keep these contract growers that we have
14 relationships with with pigs in our facility.

15 We're kind of in a situation here recently
16 where we overshot that in reducing our herd, so I'd
17 like to explain that to you in more detail.

18 MS. TURNER: We would welcome your comments.
19 Have the attorneys mark anything that's confidential
20 that you want to be kept confidential that only the
21 attorneys under the Protective Order and the
22 Commission will see that you would like to keep that
23 way in your response, please.

24 MR. IVEY: Okay. Thank you.

25 MS. TURNER: My question now has to do with

1 the hog production cycle. Actually, Mr. Hayes, I have
2 a question for you.

3 On Chart 2, you indicated that the typical
4 hog production cycle, and I believe Dr. Ambrecht had
5 actually also discussed this a bit, but I actually am
6 looking at the chart that you were providing here.

7 The typical production cycle is four years,
8 two years up, two years down. I take it you would
9 consider two stages to the production cycle as opposed
10 to in cattle we have four stages is what they called
11 it. Does the industry here basically characterize it
12 as a two cycle stage?

13 MR. HAYES: Yes. I'd like to make clear
14 that the word cycle implies something that's a little
15 bit more precise than what really happens. I tried to
16 show you that with Figure 1.

17 It's not a perfectly predictable cycle by
18 any means. In fact, sometimes you'll get blips that
19 are in either direction, but generally I would
20 characterize it as a period when production is
21 increasing and prices are falling. That lasts about
22 two years. The other period is when production is
23 falling and prices are rising, and that lasts about
24 two years.

25 MS. TURNER: So the first one is typically

1 called accumulation and the second one is called the
2 liquidation phase?

3 MR. HAYES: Certainly the second one would
4 be the liquidation. I'm not familiar with a name for
5 the first phase. Maybe Steven can --

6 MR. MEYER: Yes. We usually call it an
7 expansion or build up phase and then a liquidation
8 phase.

9 MS. TURNER: Okay. In the five year review,
10 my understanding was that it was being called
11 accumulation. Cattle used it as the expansion stage
12 as well, so that means we don't have to actually --

13 MR. MEYER: We don't like to accumulate.

14 MS. TURNER: -- learn something new.

15 Okay. I take it currently the U.S. market
16 is in what would be considered the liquidation phase.
17 Is that what you would characterize it as?

18 MR. HAYES: I would. The number of animals
19 we have tends to be strongly related to the number of
20 sows, and the number of sows I would expect to
21 continue to fall given the lack of profitability in
22 the industry over the last several years.

23 MS. TURNER: Okay. You indicated in your
24 direct testimony that there was over the last 10 year
25 time period that it was not a normal historical trend,

1 that the trends had been different.

2 If I'm wrong please correct me, but that the
3 down cycle currently is actually longer than what a
4 down cycle, and that might have actually been somebody
5 else who actually stated that on direct testimony, but
6 that the down cycle was longer.

7 MR. HAYES: Yes. If you went back to the
8 beginning of the century, you'd find up periods, that
9 is periods of positive profits that lasted two to
10 three, sometimes even four years, followed by maybe
11 one or two years of down, then up.

12 If you looked at that data over history
13 you'd see that the up periods were more frequent. The
14 periods of positive profitability were more frequent
15 than the periods of negative profitability, hence the
16 positive returns to the industry.

17 Since about 1994, the opposite has been the
18 case. It's almost all been periods of negative
19 profitability interspersed with short periods of
20 positive profitability. It is as if you took the
21 cycle and just compressed it downwards. You see the
22 pattern still, but it's all below that zero axis.

23 MS. TURNER: Can we look at Chart 2 that you
24 provided or Figure 2 that you provided here? I am not
25 talking about the magnitude of the down versus the up.

1 I'm at the moment just looking at the cycles
2 themselves.

3 I mean, there is obviously in the 1998
4 through 2000 period it's further down than some of the
5 up periods are, but just looking at the time periods
6 between those cycles there seems to be about a three
7 year time period between 1995 -- actually I guess
8 maybe that's only two and a half years that it's up.
9 Then it goes down in 1998 for a three year time
10 period, and then it goes up for a two year, and it's
11 back down for a two year.

12 Up until 2003 and into 2003, it looks like
13 the cycles, that there's a two year and then a two
14 year. I mean, they're equivalent. Now, the magnitude
15 is something that I agree that there's a distinction
16 here, but I'm just trying to get a feel for actually
17 the cycles.

18 You're saying the cycle is a longer period,
19 yet these look like they're following in very similar
20 same number of years up and same number of years down
21 for each of the cycles.

22 MR. HAYES: In my direct testimony I tried
23 to explain the difference in the cycles by beginning
24 where you see the vertical line and asking what would
25 happen if you had spent \$100 and captured a profit or

1 loss from the pig for the rest of the period. That
2 shows a significant negative return over the entire
3 period.

4 For me, the point is that the periods where
5 the profitability was high are not as long lasting.
6 They never lasted more than 12 months, and they're not
7 as large as the periods when profitability was low,
8 which are longer lasting.

9 I'm not sure if I made this really clear,
10 but this is monthly data, whereas the first graph was
11 quarterly data. If I were to count over to those, I
12 don't see any period lasting more than 12 months where
13 profits were positive.

14 MR. MEYER: Ms. Turner, may I add something?
15 One of the things that's hard to read here is exactly
16 where the horizontal axis labels are referring to.

17 The down spike that's right under the number
18 1995, that is actually December 1994. The down spike,
19 the very low one down below, minus 60, is December of
20 1996. The down spike over on the right-hand side
21 that's right below the 2003 number is December of
22 2002. Those are extremely consistent.

23 The point here is, and I think we can
24 provide monthly data, historical monthly data. If you
25 look back behind this period, there would be a lot

1 more positive bars on this thing than there are in
2 this time period that we're looking at here.

3 If you look at this one, the magnitude and
4 the number of negative bars is larger than the
5 positive ones. That is not the case if you went back
6 further in history. We can provide that monthly data
7 for you.

8 MS. TURNER: Well, I guess what I'm seeing
9 here, and maybe I'm not correct by what I'm seeing,
10 but if then you could actually in the postconference
11 brief sort of tell me why what I'm sort of seeing from
12 this is not correct.

13 I'm looking at the earlier time periods, and
14 they don't actually seem to entirely follow a cycle.
15 You're right. They do seem to have much more
16 profitable time periods here, and it doesn't really
17 look like there's two years up and two years down,
18 which is a traditional cycle or what we're being told
19 is the traditional cycle. What I'm looking at for the
20 time period in the last 10 years is actually seeing
21 what would be more considered traditional cycles of
22 two years up, two years down.

23 Now, the magnitudes I'm agreeing with that
24 there are some distinctions. Yes, the magnitudes of
25 the times down do seem to be more severe than the

1 profitability when the time is up, but in terms of the
2 cycle it actually doesn't seem like it is -- it's
3 meeting more what you're saying the traditional cycle
4 is than in fact the historical data is showing in
5 terms of a traditional cycle of two years and two
6 years.

7 MR. MEYER: I don't want to put words in
8 Professor Hayes' mouth. I'll let him.

9 Two years down doesn't mean two years of
10 losses, okay? Historically it was two years up, two
11 years down. The two years down weren't very large
12 losses. Now it's two years of small profits and two
13 years of large losses.

14 I guess my thought is as I see the cycle the
15 cycle is still there, but the mean of the cycle around
16 which it moves has moved down significantly during
17 this time period.

18 Now I'll let Dr. Hayes comment on that too.

19 MR. HAYES: When I referred to the cycle, I
20 referred to the size of the breeding herd. Figure 1
21 shows you the breeding herd for the earlier period,
22 that is the period prior to 1999.

23 I got Figure 1 from my colleague, John
24 Lawrence. I didn't create that data. When I went to
25 create the data, I separated out the returns data on

1 Figure 2 with the size of the breeding herd on Figure
2 3.

3 If you look at Figure 3, the red line shows
4 the size of the U.S. breeding herd. Rather than
5 follow a traditional cycle, the size of the U.S.
6 breeding herd has actually fallen in nine of the last
7 10 years. I just separated the data out.

8 My point here is that in a traditional cycle
9 you would have had a breeding herd lagging by year
10 with the signals coming from the market going up and
11 down on a two-year phase cycle. In the post 1994
12 period, what you have is an almost continuous decline
13 in the breeding herd.

14 That's what traditionally people think about
15 when they refer to a cycle as more sows followed by
16 more pork over a two year period followed by less sows
17 followed by less pork.

18 MS. TURNER: If you can describe some more
19 of this? I mean, I'm understanding there's actually
20 much more to this than what the pictures are actually
21 showing. The pictures are somewhat not maybe helping
22 the case, so if you can describe a little bit more for
23 the postconference brief about that?

24 MR. ROSENTHAL: One thing I think you have
25 to understand, and maybe this was mis-stated or

1 unclear from the earlier testimony. I think you're
2 focusing on the duration issue as opposed to where the
3 peaks are and the valleys.

4 While there might have been testimony saying
5 this is a longer down period, I think the essence of
6 Dr. Hayes' testimony was that the cycles have changed.
7 As clarified by the further questioning, you have
8 lower up periods and lower down periods. I think Dr.
9 Hayes said everything has been compressed downward.

10 I'll go back to his earlier testimony.
11 Whereas your investment of \$100 in the early period
12 would get you a fairly significant profit or return on
13 your investment, an investment of \$100 in the more
14 recent period over several cycles gets you a negative
15 return on investment.

16 That was point number one. Point number
17 two, which is clearly related to that, is everything
18 in terms of profits now, and again you've got to look
19 separately at these charts. One is talking about
20 returns. The other one is talking about the size of
21 the breeding herd. Obviously number one is comparing
22 those two.

23 The size of the breeding herd is declining
24 in the U.S. because the peaks are lower on the profit
25 side. That's directly related to the expansion in

1 Canada, which is the ultimate point we're here to
2 discuss today.

3 MS. TURNER: If in the postconference briefs
4 you can provide more discussion on that and continue
5 on that point, that would be very helpful.

6 Actually, that follows and transcends into
7 my question about the Canadian market and to ask
8 whether in fact the Canadian market does have the same
9 production cycles.

10 Now, you've indicated that there have in
11 fact been some, but in fact there are incentives. If
12 you could discuss a little bit more about historically
13 what the Canadian production cycles have been, as well
14 as the changes in them or not and relative to whether
15 historically they have usually been in tandem with the
16 U.S. or whether it has been a different cycle.

17 What you're I believe showing by Chart 3 is
18 that in fact it looks from this that there has been a
19 change in the Canadian production cycle, but was there
20 a time period when they were the same and were they
21 occurring at the same point in time, so to discuss a
22 little bit more of the Canadian production cycle.
23 That would be helpful.

24 I have only a few more questions here, so I
25 will be done in a few minutes.

1 I have a question, Mr. Hudgens. You had in
2 your direct testimony alleged that there would be
3 increases in subsidies that the Canadian producers
4 would get in the future. Could you provide us
5 documentation in the postconference brief not only
6 indicating what you think those are, but in fact
7 provide us what your sources are for indicating that?

8 MR. HUDGENS: We will.

9 MS. TURNER: Thank you.

10 I have a standard question that we ask
11 regarding dumping findings. Do you know of any
12 dumping findings or antidumping remedies imposed on
13 live swine in other foreign countries? If so, in your
14 postconference brief could you provide us with a copy
15 of the official notice or decree regarding such
16 findings?

17 MR. ROSENTHAL: We'll supply that.

18 MS. TURNER: Thank you.

19 My last question has to do with U.S.
20 slaughter capacity, particularly whether it's declined
21 or increased and whether there are constraints. I
22 would also like you to address the slaughter capacity
23 in Canada and whether slaughter capacity in either of
24 the markets is the reason for the subject imports.
25 There was something in the direct testimony this

1 morning that alluded to that.

2 The last one has to do with a part of that
3 discussion also; what effect transportation and
4 shrinkage costs, what effect those have on where an
5 animal is slaughtered.

6 If you'd like to make a few brief comments
7 about capacity now, but then in your postconference
8 brief provide more information about that?

9 MR. MEYER: You'd like some comments now? I
10 kind of keep track of slaughter capacity in the United
11 States. It has stabilized over the last few years.

12 It fell dramatically during the early 1990s.
13 It grew some during the mid 1990s as a couple of new
14 plants were built, and then in 1997 there were two or
15 three plants closed in 1997 and brought on a real
16 slaughter capacity crunch in 1998. That's one of the
17 reasons for the depth of the cycle in 1998.

18 Since that time, slaughter capacity in the
19 United States has grown. We have only built one new
20 plant, and it's a small plant in Illinois that just
21 opened up this last year, but our packers have
22 systematically by changing the way they run their
23 coolers and the way they do their cut floors and a
24 number of other things been able to increase the
25 throughput levels so that last fall we handled pretty

1 close to 400,000 head pigs per day without much
2 trouble.

3 Canadian capacity has grown steadily over
4 the years as well. They did have a problem last year
5 when a plant closed in mid summer, and we saw an
6 almost immediate increase in the imports of slaughter
7 hogs because of that plant closure.

8 MS. TURNER: And the plant closed because?

9 MR. MEYER: Because margins went down last
10 year in Canada due to reduced demand for pork.

11 MS. TURNER: So it's still available to be
12 used?

13 MR. MEYER: No. It opened again in the
14 fall. It has not ramped up to the kind of throughput
15 levels it was using before that time, to my knowledge.
16 They were running about half as many hogs as they
17 were. That's a plant at Nepawa in western Canada.

18 Canadian capacity has grown over time. It
19 has not grown in the last year or so or couple years.
20 We can provide that in the postconference brief.

21 MS. TURNER: The closure of that plant in
22 Canada at that point in time, does that account for
23 the increases in imports?

24 MR. MEYER: No, not all of them. No. It
25 was a short-term situation that caused that. It's not

1 part of the systematic increase in imports of Canadian
2 pigs over time.

3 MS. TURNER: Thank you. I'm finished.

4 MR. CARPENTER: Mr. Gehrke?

5 MR. GEHRKE: Okay. I have a number of
6 questions. The first one is kind of a technical
7 question, and maybe Mr. Rosenthal can answer this.

8 In the petition, you identified the exempt
9 animals as USDA certified. AMS tells me that they
10 don't have a certification program for breeding stock,
11 so I'm assuming that's an APHIS program.

12 I've not been able to find the specific
13 reference to how they certify those animals, so could
14 you provide us with that information?

15 MR. ROSENTHAL: We'll get you that in the
16 posthearing brief.

17 MR. GEHRKE: Thank you.

18 I guess my next question is kind of one of
19 pricing and pricing in the feeder pig market and the
20 weanling market. USDA publishes two series, the
21 series for the early weaned pigs and the series for
22 standard feeder pigs.

23 Those two series do not necessarily --
24 there's a margin between those, a basis between those.
25 It's not constant. The 40 to 50 pound price is much

1 more volatile than the early weaned price.

2 Can you provide us references or information
3 as to why those prices vary and why they vary over
4 time and they do not vary consistently? You can
5 either provide that now or in the posthearing
6 submissions.

7 MR. MEYER: One of the reasons that the 40
8 to 50 pound prices are more volatile is there's a
9 higher percentage of those that are purchased strictly
10 on negotiated sales.

11 The 10 pound pigs, that price series that
12 you get from USDA includes a formula price and
13 contract supplies and negotiated sales all in the same
14 number. USDA has just in the last six or eight months
15 started breaking those out between negotiated and
16 formula sales, but it's not in the period of
17 investigation here so I don't think that's an
18 important thing for us to deal with.

19 During that time period though there's a
20 much higher proportion of 40 to 50 pound pigs that are
21 purchased strictly on negotiated sales and so you
22 won't have the leveling effects of contractual
23 arrangements in that price series that you do in the
24 10 pound price series.

25 That would be my only real guess on why

1 those are different. In fact, they are. You're
2 right. There's much more volatility in the 40 to 50
3 pound, but those pigs -- I'll produce those and put
4 them on the market because I don't actually have to
5 ship them tomorrow as in the case of a weaned pig when
6 I've got to get the pigs out of the barn and get the
7 farrowing room cleaned up and move back into it.

8 MR. GEHRKE: And then maybe you could also
9 elaborate on then the tracking between the price of
10 feeder pigs and the slaughter price and how those
11 prices interact and any references or information on
12 the tracking of those prices.

13 My next questions go back to the hog cycle
14 comments that were made. Dr. Hayes provided the chart
15 that showed that the U.S. herd has constantly been
16 kind of decreasing over time. How much of that can be
17 attributed to increased productivity?

18 MR. HAYES: The question is how much of the
19 reduction in the U.S. heard can be attributable to
20 increases in productivity.

21 There has been an increase in productivity
22 of the U.S. herd. In addition, the U.S. has found
23 export markets for pork outside of North America or at
24 least outside of the U.S. and Canada. In my remarks,
25 I used the phrase "than would otherwise have been the

1 case."

2 I would think that the increase in
3 productivity has contributed towards the need for
4 fewer sows, but the increase in exports has
5 contributed to a need for additional sows.

6 The additional sows were not grown in the
7 U.S. They were essentially produced in Canada, and
8 many of the pigs that were needed to fill export
9 markets from both countries originated from additional
10 sows that were added in Canada.

11 Does that answer your question?

12 MR. GEHRKE: Yes, somewhat. If you could
13 provide --

14 MR. HAYES: Sure.

15 MR. GEHRKE: If you have more information on
16 that, you can provide that in the postconference
17 briefing.

18 MR. ROSENTHAL: Mr. Gehrke, if I may make a
19 point on that too? I assume you'll ask the
20 Respondents this question as well. I think it's
21 fairly clear that the Canadian and U.S. industries
22 have both gotten more productive, and they both are
23 very competitive in terms of worldwide cost of
24 production.

25 The question is given their increased

1 productivity why you see their breeding herds growing
2 while the U.S. is declining. You can see they're
3 virtually mirror images of one another if you take a
4 look at the Figure 3 slide by Dr. Hayes.

5 MR. GEHRKE: Yes. I just wanted to get on
6 the record that there are other factors that are
7 contributing to the changes in the sow herd for my
8 colleagues who don't follow the industry every day to
9 understand better.

10 I guess another factor in the U.S. industry
11 has been significant structural change has taken place
12 over the last decade and again consolidation. Again,
13 how much has this contributed to changes in the cycle
14 and the changes that you described in the industry?

15 MR. HAYES: As you referred, there has been
16 an increase in production from larger facilities and
17 an outflow of people who were the traditional mixed
18 pork producers. The larger facilities were developed
19 in anticipation of additional profits in farrow to
20 finish operations or in farrow to wean operations.
21 Those additional profits have not come about.

22 Had we not had an interruption in normal
23 market forces, the U.S. production level would have
24 equilibrated at a level of profitability that would
25 have allowed both larger ones and the original ones to

1 remain profitable.

2 What has happened is that in addition to
3 normal market forces, which would be in equilibrium in
4 the U.S., we've had an additional inflow of feeder
5 pigs and weaned pigs from Canada, and that has
6 distorted the market forces so that neither the newer,
7 larger operations or the traditional operations have
8 been profitable.

9 So the additional imports from Canada caused
10 an additional price reduction into the U.S. over and
11 above anything that was going on related to
12 consolidation, and consolidation should have been over
13 a long period a simple replacement of one type of
14 producer with the other. Instead, we've had a
15 negative growth in all types of the breeding herd.

16 MR. GEHRKE: I guess Dr. Ambrecht may be
17 able to address this issue and maybe Dr. Hayes and Dr.
18 Meyer because there may be a physiological and
19 economic reasons for the separate ability of the
20 stages and how that has affected the change in the
21 U.S. production.

22 Presumably the Canadians are producing
23 feeder pigs and they're not feeding them in Canada.
24 They're shipping to the U.S., so those stages are
25 separable. You've described that the sow herd is

1 decreasing, but the pigs are still being fed in the
2 U.S. They're just coming from Canada.

3 Is there any issues that relate to
4 profitability and other factors that affect why or why
5 not those stages can be separated?

6 DR. AMBRECHT: I really cannot answer that
7 question. I'll defer to one of the other folks that
8 maybe can.

9 MR. HAYES: I'll try, and maybe Steve will
10 too.

11 Let me begin with explaining how traditional
12 producers who are not in formal contracts would price
13 a feeder pig. They would look at the anticipated
14 value of the slaughter pig and subtract the
15 anticipated value of the feed.

16 Both of those anticipated values are
17 available on the futures market, so it's pretty
18 precise. Then they would pay a price for their feeder
19 pig. That allows them to make some profit. They
20 won't pay any more than that because they would almost
21 certainly lock in a loss.

22 In fact, if they're pretty sophisticated
23 they can actually under the right circumstances buy
24 their grain on the futures market and sell their
25 resulting live animals on the futures market and know

1 that when they pay a precise price for the feeder pig
2 that they can anticipate or even hedge the production
3 cost.

4 What tends to happen is that when the price
5 of slaughter pigs rises, the prices that will be paid
6 for those feeder pigs will rise also.

7 Another part of your question had to do with
8 how we can justify the importation of feeder pigs into
9 the U.S. That's very simple. The U.S. corn belt --
10 Iowa, southern Minnesota -- has relatively inexpensive
11 grains.

12 That's the big part of the production cost
13 at the finishing stage and so the reduction in risk,
14 which impacts primarily on the capital intensive
15 portion, has had a relatively bigger impact than in
16 the farrowing stage because that's where the dollars
17 are, but the U.S. has continued to have a feed cost
18 advantage, and that's why the Canadian feeder pigs
19 tend to come in.

20 Paul asked me to say why there's lower risk
21 in Canada or in the farrowing phase. Farrowing is
22 very capital intensive and so you have to make those
23 interest payments regardless of whether you're in
24 production or not, so you really need to feel
25 comfortable before you borrow the money that your

1 farrowing unit will be profitable for a long period of
2 time because if you shut it down the capital payments
3 still have to be made.

4 What happened in the fall of 1998 in the
5 U.S. was pork prices essentially fell to zero. That
6 was a big shock to the whole industry that price could
7 fall so far and reminded us how risky the business is,
8 and it reminded U.S. pork producers that before they
9 build new farrowing facilities they better have some
10 way of guaranteeing that the facilities would remain
11 profitable.

12 In Canada, as I mentioned, especially in
13 Quebec, it is almost impossible to lose money by
14 owning farrowing facilities because the government
15 will pay you in years when you lose. The program that
16 has been announced for this year does something
17 similar for the rest of Canada.

18 Again, if you have a farrowing facility
19 there and that's all you do and if you were to lose
20 money, you could compare this year's losses against
21 the last five years and potentially get reimbursed for
22 losses that were below the five year average.

23 The effect of that risk subsidy has a
24 disproportionate effect on the riskiest or most
25 capital intensive parts of the business, which is the

1 farrowing operation.

2 Finishing, because of the futures market,
3 because it is mostly a grain intensive business, the
4 risk isn't relatively as large there.

5 MR. GEHRKE: And one last question for
6 Mr. Ivey.

7 If there is anything that is confidential,
8 you can put this in a post-hearing brief that I'm
9 going to ask for.

10 From the name of your firm, Maxwell Foods,
11 can we assume that you're an integrated firm and your
12 hogs are processed or do you just sell hogs?

13 MR. IVEY: We have no processing.

14 MR. GEHRKE: You have no processing? Okay.

15 MR. IVEY: But we have processing -- well,
16 this is part of another business in turkeys, but
17 Maxwell Food is totally hogs and we have no hog
18 processing.

19 MR. GEHRKE: Okay. So none of the hogs that
20 you produce are slaughtered by a company that you're
21 affiliated with, then?

22 MR. IVEY: That's correct.

23 MR. GEHRKE: Thank you.

24 MR. CARPENTER: Mr. Fry?

25 MR. FRY: One quick item. I want to

1 encourage producers to get to the questionnaires.

2 I notice it's almost a week out from the deadline and
3 I only have about half of what I need. If Mr. Hudgens
4 or the others could help me in that, I would
5 appreciate it.

6 MR. HUDGENS: Could you provide us a list of
7 who you sent a questionnaire to? We don't have that.

8 MR. FRY: Yes.

9 MR. CARPENTER: Mr. Deyman?

10 MR. DEYMAN: I'm George Deyman, Office of
11 Investigations.

12 You indicated earlier that the Canadians
13 have increased their production and herd size and,
14 indeed, they have. You also mentioned the
15 difficulties facing the industry in Canada. Why, in
16 your opinion, has Canada increased production in this
17 difficult period?

18 MR. ROSENTHAL: The main reason is they have
19 subsidies that take the risk from them that the U.S.
20 producers continue to face and I think it's important
21 to go back, if you would, Mr. Deyman, to Dr. Hayes'
22 last statement because what you are seeing is an
23 increase in the imports from Canada of the feeder
24 pigs, for example, weanling/feeder pigs, after the
25 pigs have been born, farrowed in Canada, which as Dr.

1 Hayes said is the most risky element of the process in
2 terms of investment and they're being brought here
3 because at the feeder stage there is less risk, even
4 though Canadian and U.S. grain prices tend to be the
5 same over time because the grain market in the U.S. is
6 a common one, if you will, in terms of price
7 ultimately and what's happened is that -- and I would
8 to thread a tie in these various testimonies you've
9 heard before that, as Mr. Caspers said, it is cheaper
10 for a U.S. hog producer, less risky for the U.S. hog
11 producer to not be in the farrowing stage and instead
12 buy a weanling or a feeder pig and go from that
13 process than to essentially grow the pig from the
14 beginning stage.

15 And so more weanlings, more feeder pigs have
16 not been grown here, they have started off in Canada
17 and moved here because of the relative low price and
18 low risk involved in viewing that. That has directly
19 displaced U.S. producers who were previously growing
20 the hogs from their birth all the way through the
21 process here and you've heard testimony from Dr.
22 Ambrecht about that and also by Mr. Ivey about that as
23 well, but it is that cushion that the Canadians have,
24 that lack of insecurity that they have about being
25 able to get a return no matter what the market prices

1 are telling them, that allows them to grow the way
2 they have been growing and has caused the U.S.
3 producers to decline.

4 MR. DEYMAN: Does your answer apply not only
5 to the period that we're looking at but I noticed that
6 going back to about 1997 the sow numbers in Canada
7 have been increasing every year, year to year, whereas
8 in the United States, that's not always true. So
9 would your answer be the same for the historical
10 period going back to 1997?

11 MR. ROSENTHAL: I think that these long-term
12 trends probably begin even before 1997, but these have
13 been ameliorated by different things, other factors
14 have affected those.

15 Now, you'll hear the Respondents say, yes,
16 but the Commerce Department was finding during that
17 period of 1997 and the late '90s that the subsidies
18 being provided to the Canadian producers weren't
19 contravailing or they were contravailed at a lower de
20 minimus level. And it is true that the level of
21 subsidy and the kind of subsidies provided to the
22 Canadian producers has changed over time and the
23 Canadians have gotten a lot more sophisticated in how
24 to deliver their subsidies in large part because their
25 previous subsidies had been found contravailing.

1 Whether the current subsidies that are being
2 provided are contravailing will obviously be decided
3 by the Commerce Department, but there is no question
4 that these subsidy programs exist and there's no
5 question that these subsidy programs take some of the
6 risks of being a hog farmer in Canada out of the
7 calculation and that has caused the imports to come
8 down here.

9 Obviously, the issue for the International
10 Trade Commission is not necessarily entirely why the
11 imports have come down here or why the hog operations
12 in Canada have grown, but really since those are
13 really established facts what has been the impact of
14 those on the domestic industry.

15 I understand you want to get behind the
16 numbers and understand exactly what's going on, but
17 the facts are undisputed: growth in the Canadian
18 herds, growth in the Canadian production, incredible
19 growth in the Canadian exports to the U.S. while on
20 the U.S. side it's been virtually a mirror image:
21 declines in production and ultimately pricing that is
22 not sustainable over the long term.

23 MR. DEYMAN: Speaking of the long term, Dr.
24 Hayes, could you look at your chart, your Figure No.
25 3?

1 Now, this figure is correctly labeled in
2 that it consists of index numbers, but the absolute
3 numbers of sows in Canada is much lower than in the
4 United States, so if a chart were done showing
5 absolute numbers, it might show a somewhat different
6 picture.

7 What I would like you to do in your
8 post-conference brief is reproduce this chart with the
9 absolute numbers, using the same data.

10 MR. HAYES: Yes, I will do that. The index
11 helps you to see the relevance trends, but, as you
12 point out, the U.S. industry is much bigger and so
13 I will report that. Because the index is performed in
14 a certain way, I'm certain you'll see a very similar
15 pattern in the trends in the industry, but with the
16 magnitude being relatively lower from Canada and
17 relatively larger from the U.S. because it's U.S. base
18 industry was much bigger.

19 MR. DEYMAN: Thank you.

20 According to the petition, prices decreased
21 substantially between 2001 and 2002 by about 24.6
22 percent, while imports from Canada increased by 7.7
23 percent. But in 2003, when imports from Canada
24 increased by 29.7 percent, prices in the United States
25 increased by 13.2 percent.

1 Those opposed to the petition may argue that
2 these facts alone don't show much of a causal link
3 between the imports and the decreased prices for the
4 U.S. product.

5 Could you expound on that, please?

6 MR. HAYES: I will and I think Steve will,
7 too. In markets in the real world, there are many
8 other factors that often come into play to influence
9 prices, so the experiment is not just a stable U.S.
10 market and then additional pigs from Canada. The real
11 world we have changes in the U.S. export opportunities
12 in particular because the U.S. dollar has fallen and
13 that has increased our potential exports to places
14 like Mexico and Japan. Those have had a positive
15 impact on prices in both the U.S. and Canada and that
16 perhaps explains some of the discrepancy you pointed
17 out. But to me it's clear that if you could set up an
18 experiment where the only thing that changed was the
19 supply of feeder pigs in North America or the
20 additional exports from Canada, you would always see a
21 price decrease, but the real world data isn't going to
22 allow you to separate that.

23 We have developed techniques, econometric
24 regression analysis, that allow us to separate out
25 those effects and they are consistently able to show

1 that an increase in available supply does cause a
2 reduction in prices. We have measured that
3 statistically and usually you get statistical
4 significance on the relationship between an increase
5 in supply and the consequent reduction in price and
6 that was the flexibility I referred to earlier.

7 We're not sure precisely how large it is,
8 but it's somewhere between 2 and 4, negative 2 and
9 negative 4.

10 MR. DEYMAN: In 1002, in fact --

11 MR. CARPENTER: Mr. Deyman, you have a
12 follow-up.

13 MR. MEYER: Mr. Deyman, I would only echo
14 Dr. Hayes comments. The important thing here is that
15 there are a lot of factors there and I think the thing
16 to keep in mind always in this case is what would the
17 situation have been without imported Canadian hogs and
18 the answer to that question is that the price in the
19 U.S. would have been higher.

20 The fact that the price was higher in 2003
21 than in 2002 is due to a myriad of things that went on
22 last year and if we could control all those, the
23 larger supply caused by Canadian hogs would have
24 caused prices to be lower, so you have offsetting
25 factors here.

1 MR. ROSENTHAL: There is one more offsetting
2 factor that was mentioned earlier, I just didn't want
3 this to be lost in the conversation, Mr. Deyman, and
4 that is that what happened also in 2003 is that the
5 U.S. industry adjusted to the lower prices as they
6 normally would in the cycle. They liquidated herds,
7 they reduced their production, and that was something
8 that helped to buoy prices. That was mentioned in
9 other testimony. Just the opposite happened with
10 respect to Canada, they continued to supply.

11 Had the U.S. industry reacted or not reacted
12 to the downward cycle in the same way that Canada did,
13 the prices would have been even lower and so it is
14 only because of what I would call self-preservation
15 actions taken by the domestic industry that the
16 increased Canadian imports didn't have more of a
17 detrimental impact.

18 MR. DEYMAN: In 2002, supply did increase
19 and prices did decrease, so that would be consonant
20 with your elasticity, but the increase in 2002 by U.S.
21 producers was about 8000 pigs produced, whereas the
22 imports coming in from Canada, the increase in 2002
23 was about 4000. So the increased supply in 2002 was
24 more from the domestic side than from the Canadian
25 side. So from that, could one argue that the price

1 decrease in 2002 was caused more by the increased
2 supply of domestic pigs?

3 MR. HAYES: I think we would like to take a
4 look at the data. I'm not sure how you're controlling
5 for the additional animals in the U.S. that perhaps
6 were born in Canada, so I'd like to try and answer
7 that in the post-conference.

8 MR. DEYMAN: That's absolutely fine. And
9 along those lines, I would reiterate what Ms. Turner
10 asked earlier, that please in your post-conference
11 briefs give us some guidance on how we can best
12 calculate market consumption, the consumption and the
13 market shares of Canada and the United States, given
14 that, of course, most of the imports from Canada are
15 feeder pigs that spend most of their lives in the U.S.
16 and gain most of their weight in the U.S.

17 MR. DEMPSEY: That's absolutely fine.

18 MR. FRY: John Fry from accounting. I would
19 also like you when you are answering that question, if
20 you wouldn't mind addressing costs and then presumably
21 if you're purchasing small feeder pigs from Canada
22 they were purchased because they're cheaper and that
23 would flow through to the farmer's profits. And so to
24 the extent that that is occurring, address that for
25 me. Thank you.

1 MR. DEYMAN: I was also involved with the
2 investigation on cattle a few years ago and in the
3 cattle market, we learned that the cattle producers
4 were pretty much price takers in that there were only
5 a few packers/slaughterhouses that arguably could
6 virtually set prices. Is that the situation in the
7 pork industry?

8 MR. MEYER: Any seller of an agricultural
9 commodity is pretty much a price taker, okay? Whether
10 that price is determined in a competitive market by
11 slaughterers or a monopolistic or monopsonistic one,
12 they're still a price taker.

13 In the case of the pork industry, there have
14 been a number of the mergers in our business in the
15 last few years and the Justice Department has looked
16 at each one of those and has not challenged one of
17 those mergers on competitive grounds.

18 The Iowa and Minnesota market that we
19 referred to a while ago has a number of packers that
20 compete for supplies every day, so I think all the
21 evidence is that this is still a competitive market
22 for hogs. Like I say, it doesn't matter whether it's
23 competitive or not, sellers of hogs, since they have a
24 non-storable commodity they're price takers. So at
25 any given time, they are going to have the price

1 that's on the market.

2 MR. DEYMAN: Now, you mentioned low prices
3 for the Canadian pigs or hogs. What evidence do you
4 have that indicates that the Canadian product is
5 indeed lower priced, underselling the domestic
6 product? Do you have any public or non-public data
7 that you can give us other than data that we can
8 generate ourselves?

9 MR. HAYES: Mr. Deyman, are you referring to
10 the slaughter hog market or the feeder hog market?

11 MR. DEYMAN: Both.

12 MR. HAYES: Both?

13 MR. DEYMAN: And are they two separate
14 markets, is another question.

15 MR. HAYES: We will provide more information
16 for the post-hearing brief. I think our main thought
17 on that is that the over supply of hogs in the market
18 has depressed prices in both Canada among both
19 Canadian produced and U.S. produced product, so we're
20 not really making a traditional underselling analysis
21 that the commission uses. It's more that the over
22 supply of hogs in the European Union that has been a
23 caused by the imports from Canada have resulted in the
24 price depression on all hogs.

25 MR. ROSENTHAL: That said, if you look at

1 the import data, you'll see the average unit values of
2 the imports from Canada being lower than unit values
3 for U.S. prices. You have that and we'll talk more
4 about that in our post-conference brief.

5 One other point on that, though, and that is
6 not a matter of underselling a feeder pig by the U.S.
7 versus one coming in from Canada necessarily. In many
8 instances, it's the Canadian pig being offered or
9 available at a lower price than the U.S. producer can
10 produce and looking forward in the market as being
11 described earlier by Dr. Meyer and others, if I factor
12 in the grain costs, I factor in what the slaughter
13 price is going to be, am I going to be better off
14 starting off with this pig from Canada than I am if
15 I have to grow it myself. So the price that is being
16 offered is such that the make/buy decision going
17 forward is influenced. In that sense, it's
18 underselling at an earlier stage in the process,
19 rather than at the end of the process.

20 MR. DEYMAN: Any injury by reason of imports
21 from Canada, is it something recent or is this
22 something that has been going back beyond the period
23 of investigation, several years?

24 MR. ROSENTHAL: I think that there have been
25 periods, certainly, the time when they filed the

1 original case in the '80s, it had started then and
2 there were times when I think the marketplace adjusted
3 to the presence of Canadian imports in the marketplace
4 and up through not too long ago, into the late '90s,
5 or at some point, you maybe had two and a half to
6 three million Canadian hogs coming in.

7 What's happened in the last few years is
8 just a rapid acceleration of imports from Canada. At
9 the same time, the market was heading down, what we
10 argue is that the injury really in the last couple of
11 years is troublesome because the U.S. industry has
12 been trying to adjust to the market signals where
13 you're not seeing that adjustment by the Canadians.

14 I want to go back and restate something that
15 is very, very important. The U.S. and Canadian
16 industries have tried very hard over the last number
17 of years to have a cooperative relationship. They
18 have much more in common than they have in
19 disagreement. And so I mentioned before certain
20 accommodations that had been made with respect to
21 coverage of cases over time and then effort to reach
22 accommodation with the industries. The domestic
23 industry has not tried to keep out every hog that
24 comes in from Canada. There has been what I regard as
25 a peaceful coexistence for a number of years.

1 What's happened is that the increase in the
2 last couple of years of hogs from Canada, coupled with
3 the domestic industry's attempts to deal with the hog
4 cycle in a rational manner, has thrown things out of
5 whack.

6 So it's a long way of answering that while
7 the imports have been present for a while, it's only
8 been the last couple of years, I think, that we can in
9 ITC terms attribute injury to imports from Canada.

10 MS. STALEY: And if I could just add to
11 that, I think that Mr. Ivey's testimony is directly on
12 that point, that it wasn't until over the past year
13 that they were concerned they were competing in the
14 past year that they've had to reduce their herd size
15 and they attribute it directly to the imports coming
16 from Canada.

17 MR. DEYMAN: You mentioned the hog cycle.
18 For the last few hog cycles, what has been the
19 relationship between imports and the hog cycle? That
20 is, have imports risen in response to the downward
21 phases of the hog cycle in terms of U.S. production or
22 vice versa?

23 And I would like you to also answer this in
24 your post-conference brief and I would like the
25 Respondents to answer that question in the post-

1 conference briefs, too.

2 MR. HAYES: Would you like an early answer
3 now?

4 MR. DEYMAN: Sure.

5 MR. HAYES: My understanding is that imports
6 have been pretty consistently trending upwards.
7 I need to go back and look carefully at the data to
8 see if there was an additional uptick in years when
9 U.S. prices were strong. I will do that in the
10 post-conference brief.

11 MR. DEYMAN: That would be helpful.

12 MR. HUDGENS: I am sure you will be seeing
13 this again in our post-hearing brief, the quote that
14 Mr. Hudgens had earlier from the official from Maple
15 Leaf Farms, where he mentions that in order to make
16 themselves more profitable or to export themselves out
17 of the hole they're in, the Canadians expect to
18 increase their exports to the United States by another
19 10 percent in 2004. That is exporting in the face of
20 the down cycle.

21 MR. DEYMAN: How has the relationship
22 between the price of hogs and the price of feed corn
23 affected the profitability of the U.S. industry?

24 Perhaps if you could in your post-conference
25 brief in addition to answering it briefly here, if you

1 could give us some hard data on the price of feed corn
2 and other costs compared to the profitability.

3 MR. HAYES: I will. The data that I did
4 provide from John Lawrence on Figure 1N, for myself in
5 Figure 2, does take into account the cost of feed and
6 so on. When I use the word returns, I mean the market
7 price of hogs less the input costs. But I will
8 separate out the particular cost of corn and soy bean
9 in that data series.

10 MR. DEYMAN: What has happened to the price
11 of feed corn in the last three years or so in the very
12 recent past?

13 MR. MEYER: 2001 to 2003, I would say it's
14 been pretty stable and pretty low. Since the 2003
15 crop, it has gone up, but that would not fall within
16 the period of investigation here.

17 I would have to go pull the data,
18 Mr. Deyman, to give you answer, but feed costs really
19 weren't an issue, I don't think, during the period of
20 investigation. They weren't out of line.

21 MR. DEYMAN: I just have a few more
22 questions.

23 With regard to lost sales and lost revenues,
24 I didn't see an identified lost sales or lost revenues
25 in the petition. Is that because in this industry

1 it's very difficult to identify them or perhaps you
2 could explain.

3 MR. ROSENTHAL: It is very difficult, given
4 the nature of this commodity market. You rarely have
5 an identifiable bid of one company versus another, but
6 it's really hard to isolate a particular sale from one
7 producer versus another to the packing customer.

8 MR. MEYER: I don't think you can pinpoint
9 one person lost a sale or revenue. The effect is
10 marketwide. Being a commodity, it affects the price
11 that everyone gets and so we have to attribute it in
12 that fashion.

13 MR. DEYMAN: The question on market share in
14 the petition, it indicates that the market share of
15 the hogs from Canada increased from 5 percent in 2001
16 to 6.9 percent in 2003, so the overall increase was
17 1.9 percentage points.

18 Please explain now or in the post-conference
19 brief why in your opinion in an agricultural industry
20 what is normally a small increase in market share in a
21 manufactured in may be relevant for your purposes.

22 MR. ROSENTHAL: We'll certainly do that.
23 I just want to repeat, though, or point you to Dr.
24 Hayes' discussion of elasticities and how a 1 percent
25 change in supply has a 2 to 4 percent effect on price

1 and what you're talking about there effectively
2 amounts to a 2 percent change in supplies and that's a
3 lot of money on an agricultural commodity when you're
4 talking about margins if you're lucky of a 2 percent
5 profit. So it's a big number.

6 And I will, since I can't help myself, just
7 take the opportunity to challenge your assumption that
8 1.9 percent in an industrial product may not be a lot.

9 MR. DEYMAN: I did qualify it by saying may.
10 Your petition also indicates that
11 consumption went up between 2001 and 2003. Normally,
12 when consumption of a product goes up, the price goes
13 up too. Not always, but normally one would think that
14 increased demand for something brings the price up and
15 that's not happening here.

16 Apart from the question of imports from
17 Canada, is it because that association just isn't
18 relevant in an agricultural industry like this?

19 MR. MEYER: The association is relevant, but
20 here's the point. In an agricultural product,
21 especially a non-storable agricultural product like
22 hogs, we eat what we produce, so consumption is
23 determined by how much is on the market. The question
24 is at what price do we trade it in. So in the case of
25 an agricultural product when consumption goes up, it

1 means production went up and the price went down and
2 we slid down the demand curve because the supply
3 increased.

4 MR. HUDGENS: So the increase in consumption
5 is really an indicator of the oversupply rather than
6 an increase in demand and the oversupply is what's
7 caused the price to decline.

8 MR. ROSENTHAL: I have to say I struggled
9 mightily a few years ago before the commission to
10 explain that concept because what we're trying to do,
11 the Respondents are saying what you really want to do
12 is increase consumption and our witnesses are saying,
13 no, what you want to do is actually increase demand.
14 Anyone can sell as much lamb in that case as you put
15 on the market, but the question is what price you're
16 going to get for it and so you want to increase
17 consumer demand as opposed to give away your product.

18 MR. DEYMAN: Speaking of consumption, what
19 has happened to pork consumption in Canada in recent
20 years? Whatever the trend was, what does that mean
21 for the exports from Canada to the United States? How
22 would that have affected the amount exported?

23 MR. HAYES: I'm going to provide accurate
24 numbers in my brief, but I'll tell you what I think
25 happened and excuse me if what I think happened isn't

1 what I will be able to provide, but my memory is that
2 Canadian pork consumption is relatively stable with a
3 small increase due to population increase. I haven't
4 seen any major increase in Canadian pork consumption.
5 There have been some relatively low prices recently
6 and that may have contributed to a very small increase
7 in Canadian pork consumption, so that coupled with a
8 relatively small increase in population probably means
9 an increase in Canadian pork consumption in the area
10 of 1 to 2 percent a year, but nothing major. So in
11 the big picture, it would be relatively flat.

12 MR. DEYMAN: And my last question is most of
13 the imports from Canada consist of weaner and feeder
14 pigs. Explain how the imports of those pigs which
15 spend most of their lives and growth in the United
16 States are injuring the domestic industry.

17 MR. HAYES: I'll go first and I'm sure
18 somebody else wants to respond, too. The
19 profitability of pork production in the U.S. or Canada
20 starts where the consumer, who eats the pork in the
21 restaurant or buys it from a retail store, pays for
22 that pork. That's the demand. And then the other
23 component is the supply of pork on that day or in that
24 week. That gives you a market signal. Then if that's
25 high, the packer who has provided that, will bid more

1 for live animals and if the people who provide the
2 live animals are profitable because prices are high
3 they'll bid more for feeder animals and so all the way
4 back along the pipeline. So that fundamental factor
5 is relative supply and relative demand in North
6 America and then everything else is a derivative from
7 that raw price and if you're going to buy feeder pigs
8 and you see a strong price for slaughter animals, you
9 will pay more for those feeder pigs and so in that
10 sense there's an integration along the entire system.

11 MR. DEYMAN: Thank you very much. I have no
12 further questions.

13 MR. MEYER: May I?

14 MR. DEYMAN: Yes, sir.

15 MR. MEYER: I'll make one more comment.

16 About the weaned pig or feeder pig that comes across
17 the border, he doesn't weigh nearly as much as he does
18 at slaughter. There's only one inevitable usage of
19 that animal. We don't bring them down here and divert
20 part of them to the pet business, okay? I mean, they
21 all go to food. So when he comes here and he's not
22 going to get shipped back to Canada, when he comes
23 back here as a weaned pig, he becomes part of the
24 market hog supply in the United States. And by that
25 I mean he has a supply effect. He contributes to the

1 supply at that point.

2 Yes, he may be grown here, but if he wasn't
3 here in the first place, he wouldn't have contributed
4 to that supply.

5 MR. ROSENTHAL: And he's displaced the
6 domestic production of the weanling in the first
7 instance.

8 MR. DEYMAN: Thank you again very much.

9 MR. CARPENTER: I have what I think are just
10 a few quick questions.

11 First of all, let me just note that we will
12 accept your charts for the record and we'll make sure
13 that those are attached to the transcript.

14 We had heard a good bit about supply and
15 I understand that the crux of your argument is there
16 is an oversupply of Canadian animals coming into the
17 United States. I hadn't heard a whole lot about
18 demand until Mr. Deyman started asking about it a
19 couple of minutes ago.

20 In terms of demand for pork, which I'm
21 assuming demand for hogs is to say demand for pork,
22 are there any statistics that have been presented in
23 the petition or elsewhere on U.S. demand for pork?
24 I was wondering what the trend has been over the last
25 few years. I assume those data are available from

1 USDA statistics. If they are not part of the record
2 at this point, I would like to see what they are.

3 MR. HUDGENS: We'll provide those in the
4 post-conference brief.

5 MR. CARPENTER: Do you know, Mr. Hudgens,
6 are those available on a monthly or quarterly basis?

7 MR. HAYES: We have a clarification
8 question. Are you referring to the quantity consumed
9 by Americans or to the demand curve faced by the pork
10 industry? They are different. I think you want the
11 quantity consumed?

12 MR. CARPENTER: I would say the quantity
13 consumed. Yes. And if it is available on a quarterly
14 or even monthly basis over the last few years, I think
15 that would be helpful.

16 Does anyone here know, though, just for the
17 sake of discussion, has demand been fairly flat or has
18 it been increasing or decreasing?

19 MR. MEYER: Demand during the period of
20 investigation, I think there was one year up and two
21 years down. It's been pretty flat. Demand for pork
22 has been relatively flat for several years and that is
23 demand which is a combination of consumption and real
24 price of the product put into an index form which we
25 can provide you on an annual basis. We have

1 historical data on the demand for pork that we can
2 provide. It was falling rapidly back in the early
3 '80s, it's been stabilized since then, some years up,
4 some years down.

5 MR. CARPENTER: You mentioned it had been
6 falling back in the early '80s. Have there been any
7 industry efforts or programs involved in recent years
8 to expand demand for pork?

9 MR. MEYER: Well, "Pork, the other white
10 meat" is kind of a major one that's funded by the
11 legislative checkoff in the United States and that
12 came about in the mid '80s, a major expansion of the
13 funding of those efforts. A lot of the packing
14 companies as new product development have developed
15 new products, put new concepts, a lot more entry into
16 restaurants and food service, so, yes, there have been
17 dramatic efforts by producers and the industry to
18 increase the demand for pork since that time period.

19 MR. CARPENTER: Okay. Thank you.

20 Ms. Turner asked a question earlier and
21 I heard your response to it, but I'm still not
22 entirely clear on that, since I'll admit I know
23 nothing about this industry.

24 In terms of the slaughter weight,
25 I understand you to say that there is a narrow window

1 of maybe five to ten days where the animal is at the
2 optimum slaughter weight of maybe 250 or 260 pounds and
3 I'm still not clear as to whether that's an issue of
4 the quality of the meat deteriorates after that point
5 or is it an economic issue in any sense where the
6 marginal costs of continuing to feed the animal exceed
7 the marginal revenue?

8 Why does the animal have to be sold within
9 that narrow timeframe?

10 DR. AMBRECHT: I'll answer that. It has to
11 do with several factors. Of course, the meat doesn't
12 deteriorate, however, the pricing mechanism commonly
13 has to do with a grid where an animal's carcass weight
14 or loin size and optimum is in a fairly narrow area.
15 So if the animal does not get slaughtered at that
16 point, it's going to have a less value per pound. It
17 may be still more gross revenue, but the profitable
18 revenue or the optimum is not accomplished.

19 If the animal is not able to be marketed,
20 slaughtered and measured for its value in a very small
21 point in time and weight.

22 MR. CARPENTER: Now, does that optimum
23 carcass weight vary from one packer to another?

24 DR. AMBRECHT: Yes, sir. It definitely does
25 because their markets, of course, may be different, so

1 it depends on the producers' agreements with packers
2 or if he's marketing as pigs become available. All
3 those are in the mix as to how that producer can get
4 the optimum value or maximum revenue from a pig at any
5 one point in time. The window is fairly narrow.

6 MR. CARPENTER: I'm trying also to get the
7 question of how much flexibility a supplier would
8 have, for example, if he tried to sell the animal to a
9 particular packer at a smaller weight and was unable
10 to do so, does he have some flexibility, then, to
11 shift to another packer who might be interested in a
12 larger animal?

13 DR. AMBRECHT: Of course, if he can get his
14 killing point in time because most cases now you're
15 about two weeks ahead, so you need to inform the
16 packer I've got X pigs that I need to sell and the
17 packer says I'll take you on April 3rd.

18 MR. CARPENTER: Does that happen fairly
19 routine?

20 DR. AMBRECHT: Yes, sir.

21 MR. CARPENTER: Okay. Thank you. That's
22 very helpful.

23 MR. MEYER: Some of that is due to where you
24 are in the United States. In some places there aren't
25 very many packers, so you don't have options. There

1 are limits to these -- they differ from packer to
2 packer, but you can't sell a 200 pound pig for
3 anything nearly a good price because discounts are
4 huge. In the same way, once a pig gets well over 300
5 pounds, the discounts get very large. And so you have
6 some flexibility there, but it's not strictly open
7 market on hogs any more. We have a lot of
8 relationships between producers and packers built in
9 there, so it's not as if at one time we loaded the
10 hogs up and hauled them to an auction and it didn't
11 matter where they went. That's not the way the system
12 works any more.

13 MR. CARPENTER: And what happens if a
14 particular company just has a difficult time selling
15 his product to any packer? Is it basically a distress
16 sail at some point or the animal is destroyed or what?

17 MR. MEYER: That's what happened in the fall
18 of 1998. There wasn't enough slaughter capacity to
19 take the animals at the rate that they were coming to
20 market and you basically had a completely inelastic
21 demand and packers could have picked any -- there for
22 about a week, they could have picked any price and
23 they would have got the same amount of hogs. The
24 price they chose was about eight bucks.

25 DR. AMBRECHT: Now, another reason for the

1 situation is that if production is done on a weekly
2 basis and we have so many weeks worth of production in
3 place, we don't have much flexibility. This pig
4 that's at slaughter weight must be removed now because
5 next week's pig is ready to take his place. So it
6 also narrows the window. Production is on a conveyor
7 per se and they're produced on a regular basis,
8 therefore the removal of the finished product, the
9 finishing pig, the slaughter pig, must be removed. We
10 can't just store him there until the price is right or
11 the week is right or the snow doesn't come. When it's
12 time, they must go.

13 MR. CARPENTER: That's a good point.
14 I think you more or less answered my next question as
15 to whether there is ever any situation where a
16 supplier might consider holding onto a pig for a
17 longer period of time hoping the price will increase.
18 Is that pretty rare?

19 DR. AMBRECHT: A number of years ago when
20 producers had their pigs in outdoor facilities, we
21 could do that. Today, with contractual arrangements,
22 as Mr. Ivey described, pigs are moving and must move
23 in a very regular timed basis and so there's not a
24 very big time period to have the flexibility, even
25 including weather.

1 If it's 100 degrees and we don't want to
2 move pigs, we wait until 1:00 in the morning when it's
3 only 75. If there's a blizzard, we wait until the
4 roads are cleared six hours from now and still move
5 the pigs because the time period, that flexibility is
6 very, very low.

7 MR. HAYES: Can I add one point there?

8 If pigs mix with new animals, they tend to
9 catch diseases or flus or colds from those animals and
10 so the industry has learned to adopt a technique
11 called all in, all out, so if you have 1500 animals in
12 a barn and maybe 10 percent are ready, you like to
13 move all of the pigs into that barn at one time, clean
14 it, wash it, and then move them all out together. If
15 you leave 10 percent in the barn because they're a
16 little bit lighter and you think you can get a better
17 price next week, those pigs will potentially transmit
18 health problems to the new arriving pigs and so the
19 majority of barns in North America are all in, all out
20 and that reduces the flexibility by a lot.

21 MR. CARPENTER: Okay. Thank you.

22 MR. ROSENTHAL: And, Mr. Carpenter, you can
23 see after hearing this description why when you've got
24 such a tightly organized conveyor belt or assembly
25 line, if you will, as described by Dr. Ambrecht, if

1 you add another million pigs or two million pigs into
2 the mix why a domestic industry is forced to sell its
3 product at a lower price than it otherwise would.
4 They don't have a choice to wait. There's no such
5 thing as fresh frozen pig. They've got to sell that
6 product and they're going to get a lower price because
7 there's more coming on.

8 When they're doing all the adjustment and
9 the Canadians are not, a natural consequence is the
10 lower price of anywhere, depending on where you pick
11 the point of 4 to 8 percent lower than it otherwise
12 would be, as we are estimating it.

13 MR. CARPENTER: Thank you, Mr. Rosenthal.

14 A couple of other quick questions.

15 Mr. Hudgens, you mentioned a couple of
16 things in your testimony. One thing was that imports,
17 I believe you said, increased by 48 percent in January
18 of this year. Do you or does anyone else on the panel
19 know of anything unusual that was driving that
20 increase in imports?

21 MR. HUDGENS: You know, our argument is it's
22 a continuation of the same, that if we don't have a
23 duty put in place, then the imports will continue to
24 increase and it's a perfect threat indicator.

25 MR. CARPENTER: Have you looked at the

1 monthly import levels? Do they fluctuate a fair
2 amount from month to month?

3 MR. HUDGENS: They do.

4 MR. CARPENTER: They do?

5 MR. HUDGENS: But this comparison of 48
6 percent was compared to January of 2003, the same
7 timeframe.

8 MR. CARPENTER: Okay. Thank you.

9 And just one other point that you made that
10 I was going to ask you about and I believe you said
11 imports from Canada were projected to increase by
12 about 10 percent in 2004. I was wondering, were you
13 basing that on foreign producer questionnaire data or
14 is that based on some other source?

15 MR. HUDGENS: Actually, that was based on a
16 quote from an official from Maple Leaf who said that
17 he projected imports to increase 10 percent in 2004.

18 MR. CARPENTER: Okay. Thank you
19 Mr. Hudgens.

20 That's all the questions I have.

21 MR. TURNER: I just have two very quick
22 follow-up questions, to things that both Mr. Deyman
23 and Mr. Carpenter asked.

24 Let me ask the first one that was a
25 follow-up to Mr. Deyman's question regarding the

1 Canadian pricing information and just making sure that
2 you understood part of what we're asking for. We're
3 asking not for just import values or average unit
4 values and the price of Canadian pigs coming into the
5 United States, but also what is going on in the
6 Canadian market. So if you have any information
7 whether it's provided by stuff compiled by Canada
8 Stats or whatever regarding the pricing in the
9 Canadian market, we would like that in the
10 post-conference brief and we are asking the other side
11 to do that as well.

12 MR. ROSENTHAL: We have that and will supply
13 it.

14 MS. TURNER: Thank you.

15 The last one just follows up on getting more
16 on this pricing issue regarding the optimal weight and
17 when you're selling. And I understand that you're
18 moving the hogs and you've got a production schedule
19 and thus you have to do that, but still I would like
20 to see clarification regarding why there is such a
21 discount, either for the lower weighted pigs or the
22 higher weighted pigs, which is not the same. That's
23 actually what you're getting by the packer, not why
24 you're moving it.

25 My question on that has to do with is the

1 reason, though, when you get past that optimal weight,
2 is the quality of the meat, say, when it gets over 300
3 pounds, does the quality of the meat -- or when it's
4 under 220 pounds, I'm just giving examples, that
5 you're getting those heavy discounts? And if that's
6 not the case, then why is there such a discount?

7 MR. MEYER: The situation here, pigs are
8 killed at a relatively early age, slaughtered at about
9 six months, so meat quality does not change during
10 that time period. There are factors to meat quality:
11 genetics, the way the animals are handled, but the age
12 is so small there and they're a young animal already.
13 It's not like another month on a two and a half year
14 old steer, for example, okay? That could have some
15 real quality impact. So meat quality is not the
16 issue.

17 The issue is the size of the carcass and the
18 size of the cuts and how it fits in the packer's
19 processing system. If it's a very small carcass, it
20 doesn't yield enough cuts to be the right size and the
21 packer can't divide all of his fixed costs over more
22 pounds in that carcass.

23 If it's too large, then the cuts don't fit
24 into the bacon presses and don't fit into the ham
25 curing systems and those kinds of things and yield the

1 correct size of cuts to do into portion controlled
2 products for food service, for example, or case ready
3 products for your local grocery store.

4 So it's a size issue of the cuts that come
5 out of these and we've had a trend toward heavier and
6 heavier weights in all of North America and the reason
7 is we can spread fixed costs, packers and producers
8 make more money on those. The genetics are there for
9 the animals to be efficient and packers can spread
10 costs over more pounds. One pig just -- it occupies a
11 shackle space on the line and if it's a 200 pound pig
12 or a 300 pound pig, there's a lot of difference in how
13 many pounds I can spread my costs over. So it's not
14 an issue of quality, it's an issue of fitting the
15 production system with the right size of cuts to meet
16 the needs of restaurants, retailers, and ultimately
17 consumers.

18 MS. TURNER: Thank you.

19 MR. IVEY: I wanted to mention one other
20 thing about the packers. Their kill supply is so
21 limited and that's why we've got this problem is that,
22 for instance, in our company, if we held hogs, they
23 couldn't physically kill all of them the following
24 week and we couldn't physically truck them all up
25 there. We don't have enough resources to do that.

1 Whenever there is like a hurricane or those type
2 things, the ability for the packer to catch up on that
3 product is so limited and that goes back to pork being
4 inelastic and having one more pig being so bad is
5 because the packing capacity in the U.S. has been so
6 strained just to keep up with the kill that we've got
7 and when it gets to a certain point, they don't have
8 to bid up the prices at all because their kill is full
9 and they can't kill any more, so prices fall
10 dramatically. So there's just not a lot of
11 flexibility at all in the system as far as their
12 ability to take the pigs.

13 MS. TURNER: Thank you.

14 MR. CARPENTER: I want to thank the panel
15 again very much for coming here today to educate us on
16 this industry. We appreciate your patience with all
17 of our questions, too. This is not an industry that
18 we see every day and we have certainly learned a lot.

19 Again, thank you very much for coming and at
20 this point we will take about a ten-minute recess and
21 then resume the conference with the Respondents'
22 testimony.

23 (Whereupon, at 12:25 p.m., a recess was
24 taken until 12:40)

25 //

(12:40 p.m.)

MR. CARPENTER: Could we resume the
e, please?

Mr. Porter and Mr. Ince, begin whenever
ady.

MR. PORTER: Thank you, Mr. Carpenter.
Our first witness is Edouard Asnong.

MR. ASNONG: Good afternoon. My name is Edouard Asnong and I am the elected president of the Canadian Pork Council, representing hog farmers from across Canada. I also operate a farm where I raise hogs to market from piglets which are purchased from other farmers. My farm is located south of Montreal.

I would like to begin my remarks with a brief overview of the North American hog and pork marketing structure. Although tariffs on live swine and pork products traded between the United States and Canada were eliminated in the Tokyo round of GAT negotiations, it is since the Canada-U.S. and now North American Free Trade Agreement was implemented that there is now much closer market integration of the U.S. and Canadian hog and pork industry.

A common scenario is for Canadian weanlings to be sold to U.S. pork producers who raise them to

1 market weight to be processed by U.S. packers from
2 which finished pork products are exported to Canada.
3 Another common scenario is for Canadian market hogs to
4 be sold to a U.S. pork processor who in turn sells the
5 pork to Japan. There have been significant structural
6 changes in hog production over recent years. It is
7 far less homogenous than it was, say, 15 or 20 years
8 ago, where a large majority of market hogs were raised
9 from birth to finished weight on the same premises.

10 Production has become increasingly
11 specialized within stages of raising hogs. Some
12 producers specialize in the raising of segregated
13 early weaned piglets which may weigh up to 15 pounds
14 and are sold to a nursery barn operator.

15 Others specialize in raising the piglets to
16 heavier weights, say, 60 pounds when they are called
17 feeder pigs and are sold to a farmer who has a
18 finishing barn where they are taken to the market
19 weight. Which segment of production takes place where
20 it is importantly determined by such factors as feed
21 availability and prices and land area available for
22 utilization of manure.

23 The emergence of specialized weanling and
24 feeder pig production in Canada is a complement, not a
25 detriment to the U.S. hog industry, as it provides a

1 source of high health piglets to American hog
2 finishers who have abundant supplies of pigs at low
3 prices.

4 Looking at the balance of Canadian live
5 swine exports, those over 50 kilograms or 110 pounds,
6 we can divide these into market hogs other than sows
7 and boars sold for slaughter; sows and boars for
8 immediate slaughter and; hogs not sold for immediate
9 slaughter.

10 Each of these categories have very different
11 attributes and end uses. We will address each of them
12 as to why the International Trade Commission must look
13 at them separately in its analysis of injury or threat
14 thereof.

15 MR. PORTER: Thank you.

16 Our next witness is Larry Friesen.

17 MR. FRIESEN: Good morning, ladies and
18 gentlemen. My name is Larry Friesen. I am a weanling
19 producer. I live in Brandon, Manitoba. I sit on the
20 board of directors of the Manitoba Pork Council,
21 representing the weanling pig exporters of Canada.
22 Because most of our issues are international issues,
23 I also sit on the board of the Canadian Pork Council.

24 Much to the envy of our friends at the
25 National Pork Producers Council, 100 percent of our

1 Manitoba producers pay a checkoff to our Manitoba
2 Council. We in turn advance a portion of these
3 checkoff dollars to the Canadian Pork Council, which
4 then speaks on behalf of all of Canada and all the
5 regions, so we are not fragmented, we speak as one
6 voice here.

7 I have witnessed the evolution of this
8 industry in a very personal way. At the age of 22,
9 back in 1974, I bought a 200-sow farrow to finish hog
10 operation that was set up on behalf of five big grand
11 farmers that were exiting the industry and I bought
12 the thing. Over the years, like many others, my
13 business continued to evolve in order to adapt to the
14 changes that were happening in the industry.

15 That adaptation was a transformation of a
16 farrow to finish hog operation to a specialized farrow
17 to wean operation. My experience reflects what has
18 happened, as Mr. Paul Rosenthal referred to, as the
19 North American industry: the rapid evolution to
20 specialization, multi-site production systems.

21 Historically, most hog operations were small
22 and mostly farrow to finish. However, one must
23 recognize that historically there's always been
24 farmers who just finished hogs. The farmer would
25 purchase co-mingled feeder pigs from auction marts

1 located in many small towns in the midwest. However,
2 with the advent of highly infectious diseases like
3 pseudo-rabies, porcine respiratory and reproductive
4 syndrome, swine influenza and many other health
5 concerns that made this system unviable with the
6 collection of those pigs in one area.

7 What evolved in its place is a very
8 specialized hog production system. The hog production
9 system of today typically now involves three distinct
10 segments. And some of this is repetitious, so I'm
11 going to speed through the next three paragraphs.

12 First, there's the farrowing. This phase
13 encompasses breeding to weaning. In industry
14 language, the weaned pig is called an isowean.
15 Isoweans are baby pigs that are about 7 to 21 days old
16 and weigh in between 10 and 14 pounds. It is weaned
17 from the sow and put on the truck and transported to
18 the nursery.

19 The second stage is the nursery. At the
20 nursery, which is typically a separate specialized
21 building, the pig is raised from their weaned weight
22 to about 50 to 60 pounds. This takes about seven
23 weeks. The pig at this stage is then known as a
24 feeder pig.

25 These feeder pigs can then either be

1 retained by the farmers until they're slaughtered or
2 they're sold to other farmers.

3 The final stage is finishing, in which a
4 feeder pig is again transferred to a specialized
5 facility where they are raised to slaughter rate,
6 ranging from 250 to 300 pounds.

7 At the time that this specialization was
8 taking place, hog producers got bigger and bigger and
9 large vertically integrated operations, a lot of them
10 in the Carolinas and in the south, large corporate
11 farms entered the picture.

12 There are several reasons for this. First,
13 a large operation can fill a whole nursery with pigs
14 of the same age, the same genotype and the same health
15 status. This creates efficiencies such as phase
16 feeding, split sex feeding and what was referred to as
17 all in, all out use of barn space.

18 Second, these large farms can transfer all
19 their pigs to separate finishing barns, which are
20 optimally sized and split into gilts and barrows for
21 the most cost efficient phase feeding system. In
22 addition, this allows them to maintain the cleanliness
23 of the individual barns by washing and disinfecting
24 the whole unit out at one time.

25 By maintaining this high health status, they

1 have lower mortality and higher feed efficiencies
2 which result in lower costs.

3 In addition, I would like to note that the
4 high health status in particular significantly reduces
5 a producer's dependency on antibiotics which is a very
6 important consumer preference around the world today.

7 So let me put this into perspective how
8 these big pork powerhouses back in 1988, the biggest
9 producers only finished 7 percent of all the hogs that
10 went to market. That's not that long ago.

11 And according to Successful Farming
12 Magazine, today in the United States the top 38 hog
13 producers now account for 68 percent of all these
14 hogs.

15 The presence of these large operations
16 forced the smaller farmers to make a choice. Either
17 they had to -- and we heard this early in all these
18 other testimonies, they either had to leave the hog
19 production system or change, adapt. They either had
20 to custom feed for these large corporate farms and by
21 custom feeding I mean that they get a daily rate for
22 renting their facilities and their labor out basically
23 at no risk to them, it's just a simple equation of
24 cost of production, or they could adapt and by
25 weanlings.

1 It is my view that these large vertically
2 integrated operations were counting on the small
3 farmers to cease operations, much like what happened
4 in the poultry industry, and they were partially
5 correct. Thousands of small farmers did cease
6 operations, but much to the disappointment of the big
7 operators, many small farmers found a way to compete.

8 Some chose to custom feed, like I mentioned
9 earlier. Other family farms learned that they could
10 achieve all the efficiencies that a large scale
11 operation has by embracing specialization and creating
12 network linkages. That is, by converting their old
13 farrow to finish hog operations to larger scale
14 feeding operations and then making long-term contracts
15 with a single source, high health, genetically
16 desirable weanling or isowean, the new smart farmer
17 has been able to guaranteed the numbers needed to fill
18 his barn on an all in, all out basis. And then he's
19 also able to deliver the kind, quality and number of
20 hogs that packers will be willing to pay top dollar
21 for or make a long-term contract with. In other
22 words, he or she is in the same league as the
23 producers and the pork powerhouse list or the big
24 corporate farms. They don't like that a whole lot.

25 And then with the aid of U.S. foreign

1 policy, that gives them access to extremely low feed
2 cost supplies and that means they have created a
3 production system that makes them one of the lowest
4 cost producers in the world. I have seen close out
5 after close out on these small family farms, some of
6 them as small as 300 pigs. Our customer base is
7 really about from 300 pigs a year to 7000 or 8000 pigs
8 a year being the largest. And these people, they take
9 their own corn and they grind their own corn and they
10 feed their own hogs and before they go out and
11 cultivate corn in the morning, they walk through their
12 hog house and these guys are the best hog producers in
13 the world, as far as I'm concerned, and if they can
14 get those pigs for \$30 and feed their own corn to
15 those hogs, there isn't anybody to compete with them.
16 They've got costs running around as low as \$32 where
17 these pork powerhouses today, they're all sitting at
18 \$42, \$45, as high as \$48 and I bet you some of them
19 are at \$55, if you look at the death rates and
20 everything else.

21 So it's the disappearance of the auction
22 marts in many small farrow to finish operations,
23 switching to what they do best, finishing hogs. Hog
24 farmers turn to buying their weanlings.

25 So where can they buy these high health baby

1 pigs in large numbers so that they can fill their
2 barns on an all in, all out basis, on a long-term,
3 contractual basis?

4 They certainly can't buy them from the big
5 vertically integrated operations, they want to keep
6 their contract barns full, so they have to turn
7 somewhere and for some odd reason they came to us
8 north of the border and we are, as again Mr. Rosenthal
9 referred to it, less risky and I think he was really
10 referring to less risky on a health basis because we
11 don't have pseudorabies, we have never had
12 pseudorabies in Canada, it's a huge risk to invest a
13 lot of money in these long-term farrowing houses and
14 then end up getting pseudorabies or this mystery swine
15 disease or porcine respiratory and reproductive
16 disease, which can cause 30 and 40 and 50 percent of
17 your sows to abort.

18 In the 1990s, five and seven-year long
19 contracts were being offered to Canadian weanling
20 farmers and I was right there. Mostly contracts with
21 a \$30 U.S. floor price and a 53 percent of the
22 six-month out Chicago Mercantile Exchange price, that
23 was the price that was being offered to anybody that
24 wanted to deliver baby pigs into that corn belt or
25 that hog triangle.

1 The Chicago Mercantile Exchange future price
2 for this period averaged \$33.85 over the life of that
3 five-year contract that was just recently over.
4 That's good money.

5 Since then, a variety of contracts have been
6 offered and a variety have been drawn. Some of them
7 are on an FOB basis, some of them where the farmer in
8 the U.S. pays all the border costs, including the
9 freight and the duty.

10 Ninety percent of the people I represent
11 sell pigs on a long-term contract basis and, like
12 everybody referred to before, we are price takers, not
13 price makers, but our prices generally because we
14 don't have the option of hedging our corn, hedging our
15 finished product price or making a cost of production
16 contract with a packer, we generally take a price from
17 these small farms in the midwest on a long-term basis
18 so that we know we have a customer and they know they
19 have a supplier.

20 And, yes, many U.S. hog finishers would be
21 happy to purchase healthy, quality hogs from U.S.
22 sources if they were available. The truth is, they
23 are not. The commission must recognize that there is
24 an excess of finishing capacity in the United States.
25 The finishers came to us because the supply of

1 weanlings is simply not available in the kind and
2 quantity the need it to be competitive.

3 And one of these agents for a feed company
4 happened to come to me in Manitoba. I was at home, he
5 came to me. His name was John Roseski from Kerber
6 Milling and I introduced him to my cousin who operates
7 Autumn Wood Farms, a farrowing operation in Canada,
8 and they entered into a long-term contract, Kerber
9 Milling, that custom feeds hogs from Canada on John
10 Caspers farm at a fixed rate of custom feeding.

11 Hence, Mr. Caspers hasn't lost a lot of
12 money raising hogs in the period in question, he's
13 been receiving a rate of return.

14 What I'm saying is that Canadian isoweans
15 are not displacing any U.S. production. To the
16 contrary, we will be displacing U.S. production if you
17 impose these duties. We are helping U.S. hog
18 finishers. Remember, we do not sell isoweans to
19 consumers, we sell isoweans to U.S. hog producers.
20 Seventy-five percent of the value added is done right
21 here in the United States and these hogs are U.S. hogs
22 produced on U.S. farms.

23 Thanks for your time. I will be open to any
24 questions.

25 MR. FRIESEN: Thank you.

1 Our next witness is Greg Howard.

2 MR. HOWARD: Good afternoon. I am Greg
3 Howard, Vice President and Chief Operating Officer of
4 a company called Premium Pork. I'm pretty certain
5 that our company is the largest Canadian exporter of
6 live swine to the United States. I know for certain
7 that we are the single largest export of baby pigs,
8 what we are calling isoweans, to the U.S.

9 You have just heard from Larry Friesen talk
10 about the dramatic structural changes that have
11 occurred in the U.S. live swine industry over the past
12 few years.

13 Well, I want to tell you that I am living
14 proof of that change. Indeed, we believe that our
15 company is the ideal economic model in today's swine
16 industry. We produce live swine for slaughter in the
17 U.S. exclusively using imported early weaned pigs
18 sourced from Canada. Our slaughter hogs are sold
19 exclusively to a single large U.S. buyer pursuant to a
20 long-term contract, which we concluded in 1998.

21 Our company was born in 1997 out of a vision
22 of how to produce world class, cost efficient hogs.
23 We thought long and hard about how to best structure
24 our operation to best compete in this hog market. At
25 the time, the U.S. hog industry was at a crossroads.

1 U.S. packers were frustrated by the inability to
2 obtain steady consistent volume of high quality hogs.

3 We were aware that large U.S. packers were
4 looking for suppliers of such hogs and were frustrated
5 by their inability to find this consistency in their
6 supply chain.

7 Furthering our discussions with a particular
8 packer, we then considered the relative cost
9 advantages of Canada and U.S. facilities and soon
10 realized that a world class company must integrate the
11 best of what North America has to offer.

12 We decided to combine the superior herd and
13 facilities management complemented by high health and
14 excellent genetics in Canada with the high quality,
15 low cost midwest feeding and grain consumption.
16 Taking advantage of the best of Canada and the best of
17 the U.S., we have established a high quality product
18 to supply on a consistent basis. Our success has led
19 to increasing demand for our product by our packer.

20 Now, what is our product in Canada? The
21 product is isoweans, baby piglets that have just
22 finished being weans. Essentially, our specialty in
23 Canada is breeding and farrowing. Once the baby pigs
24 are weaned at about 17 days, in our case, we ship them
25 to our affiliated company in Iowa, where our American

1 partners raise them to full slaughter weight. We
2 consider ourselves specialists in breeding and
3 farrowing in Canada. There is really no dispute that
4 breeding, gestation and farrowing are most effectively
5 done in Canada.

6 Canada's abundant land lowers disease in
7 piglets, disease risk. Canada has the space for us to
8 efficiently build our farrowing operations away from
9 people and away from other pigs. Canada's cool
10 climate also contributes to the markedly lower disease
11 incidence relative to the U.S. Cooler temperatures
12 also promote lactation, which increases and enhances
13 the weight of our baby piglets at an early stage.
14 Taking all these factors together gives Canada a clear
15 advantage in breeding and farrowing.

16 Just to use our company as an example, on
17 average, our sows produce 24 pigs per year, compared
18 to the U.S. average sow that produces only 18. Such
19 enhanced productivity is critical, given the
20 increasing demand in our industry for enhanced
21 efficiencies.

22 Similarly , there is little doubt that
23 feeding and finishing stages of hog production are
24 much more efficiently done in the United States. This
25 is where Premium Pork Finishing U.S. enters the

1 picture. Our finishing operations can take advantage
2 of the plentiful low cost corn and soy mill that we
3 feed our hogs. Each hog consumes roughly 700 pounds
4 of U.S. grain.

5 Premium Pork U.S. buys ten pound weanlings
6 and after six months sells 260 to 270 pound hogs.
7 These are U.S. hogs.

8 Two thirds of the final cost of producing a
9 slaughter hog is the cost of grain. Less than
10 one-third is the cost of the weanling. By finishing
11 our hogs in the U.S., we can take advantage of the
12 U.S.'s incredibly efficient farmers. Even the best of
13 growing seasons in Canada's grain farmers cannot match
14 the bushels per acre regularly harvested by an Iowa
15 grain farmer.

16 On the other hand, the density of hog
17 finishing operations in the heartland increases the
18 incidence of disease. Disease are most pressing for
19 sows and weanlings. This in tern confirms the
20 business decision to place our sow barns in Canada.

21 Finally, I want to talk about the price that
22 I get for isoweans that I send to the United States.
23 As mentioned, at the time our company was founded in
24 '97, Premium Pork Canada and Premium Pork Finishing
25 together with our U.S. partners signed a contract to

1 sell exclusively to a large U.S. packer. The basic
2 contract terms, including pricing, have not changed
3 during the last seven years.

4 Thank you for your time.

5 MR. FRIESEN: Thank you.

6 Our next witness is Lance Mistelbacher.

7 MR. MISTELBACHER: Hello. I am Lance
8 Mistelbacher, Director of Commodity Risk Management at
9 Maple Leaf Foods. Maple Leaf Foods is the largest
10 processor and producer of hogs in Canada, with annual
11 sales of \$5.2 billion.

12 At Maple Leaf Foods, the hog and pork
13 markets can significantly impact earnings, so we
14 monitor these markets on a daily basis. My role here
15 today is to articulate what demand factors influence
16 hog market prices.

17 Let's begin with pork prices. As everyone
18 knows, hogs are processed into pork products. As
19 depicted in graph 1, it is clear that hog prices and
20 pork prices are very highly correlated. In fact, the
21 most common measure of correlation is known as
22 R-squared and the R-squared between these two prices
23 is 97 percent. This is a remarkably high R-squared
24 since 1 is a perfect correlation.

25 Clearly, as the market for pork changes so

1 follows the price of hogs. Thus, one can surmise pork
2 prices drive hog prices.

3 Conversely, in our second slide here, there
4 is virtually no correlation between hog prices and
5 Canadian slaughter imports. Note pricing has a
6 seasonal trend. Prices are high in the summer, low in
7 the winter; however, in the next slide when the price
8 data is seasonally adjusted, the R-squared is still
9 zero.

10 I think this answers the question Mr. Deyman
11 asked earlier concerning the relationship between U.S.
12 hog prices slaughter imports from Canada over the
13 entire period.

14 So the real question we need to look at is
15 what are some factors that determine the price for
16 pork, so let's look at the protein market dynamics
17 that occurred in 2002.

18 First, in March 2002, Russia shut off
19 poultry and pork. Russia is one of the most important
20 markets for U.S. poultry and one of the largest. This
21 dispute seriously hampered trade flows, reducing total
22 U.S. imports by 15 percent from year period and in
23 April 2002 alone exports were lowered by 41 percent.

24 This tremendous decline in exports forced
25 poultry producers to sell their products in a domestic

1 U.S. market for extremely low prices, forcing pork
2 prices lower.

3 Poultry was not the only protein market to
4 adversely affect pork prices in 2002. U.S. beef
5 production was also at a record high. I think if we
6 look at the chart we see the combined total meat
7 supply was a record in 2002.

8 Thus, the message here is clear. The record
9 meat supply or, as many analysts have called it, the
10 protein glut or meat glut drove all meat prices lower,
11 including pork prices.

12 These lower pork prices caused the lower hog
13 prices. I think earlier there was testimony or a
14 question as to why in 2003 when imports were
15 increasing at a greater rate in 2002 did the hog
16 market increase.

17 Well, if we look at the chart here, in 2003
18 we saw a decline in total meat supply and that would
19 constitute a major reason why hog prices, as all meat
20 prices, rose in 2003.

21 Another factor to consider is the export
22 market for pork. If we look back in the period, 2001
23 was a very profitable year for U.S. hog producers.
24 Market price for hogs was very strong. This was
25 largely driven by strong export demand that arose as

1 foot and mouth disease in Denmark forced it out of the
2 lucrative Japanese market, allowing the U.S. to gain
3 market share.

4 The hog market as shown rallied sharply to
5 this new demand factor for pork, further illustrating
6 that pork prices drive hog prices. Slaughter hog
7 imports from Canada have little to no effect as shown
8 by the data.

9 Thank you for the opportunity to speak and
10 I will entertain any questions that you have.

11 MR. INCE: Thank you. Our next witness is
12 Kevin Grier.

13 MR. GRIER: Good afternoon. My name is
14 Kevin Grier. I am a senior market analyst at the
15 George Morris Centre. That's an Agriculture and food
16 think tank in Guelph, Canada. I specialize in the
17 economics of the Canadian pork and pig industries.

18 My testimony specifically focuses on the
19 unique circumstances of 2003 that caused an increase
20 in sales of Canadian slaughter hogs to the U.S.
21 market. This represents an exception to the trend
22 from 1998 through the beginning of 2003 of declining
23 Canadian slaughter hog exports to the United States.

24 In 2003, however, there were two
25 extraordinary developments that changed the normal

1 economics of the Canadian market for slaughter hogs.
2 First, there was a very large and unprecedented
3 appreciation of the Canadian dollar relative to its
4 U.S. counterpart. The second was the repercussions
5 for the pork and hog industries arising from the
6 findings of BSE in a Canadian cow in May 2003.

7 The price of hogs in Canada changes in the
8 opposite direction to a change in the Canada-U.S.
9 exchange rate. A rule of thumb is that for every 1
10 percent in the value of the exchange rate, hog prices
11 move by a percent in the opposite direction.

12 In 2003, the Canadian dollar strengthened
13 markedly against the U.S. dollar from about 64 cents
14 to about 77 cents U.S. As a result, the Canadian
15 dollar value of both slaughter hog and pork sales
16 declined significantly.

17 The incidence of BSE in Canada had a direct
18 effect on Canadian slaughter hog and pork prices as
19 well. Here is why. Because of BSE, there was a
20 virtual shutdown of Canadian beef exports and a very
21 sharp rise in the availability of certain beef
22 products on the Canadian market.

23 These beef products were in turn processed
24 into ground beef and sold in the Canadian market at
25 exceptionally low prices during the summer of 2003.

1 This extraordinary surge in supply of ground
2 beef at exceptionally low prices caused Canadian
3 consumers to substitute beef for pork. Canadian pork
4 packers were consequently forced to discount pork into
5 the Canadian market. So the result of these two
6 factors was the very large and rapid appreciation of
7 the Canadian dollar and incidence of BSE which were
8 happening only in Canada caused Canadian packer
9 profitability relative to U.S. profitability to
10 decline significantly in the summer of 2003.

11 This fall in Canadian pork prices and
12 margins was devastating for Canadian packers. Two
13 plants closed for a period, others reduced their
14 throughput. This weakened Canadian packer buying
15 power allowed U.S. packers to out bid them for hogs,
16 which thus led to increased Canadian slaughter hogs to
17 the U.S. in the summer of 2003.

18 Mr. Possberg, who follows later, will review
19 developments in Canada with regards to increases in
20 slaughter capacity.

21 With regard to the exchange rates, however,
22 the Canadian dollar has eased back to a recent range
23 of about 74 to 76 cents. Finally, I would like to
24 comment on the economics of the North American trade
25 in weanlings and feeder pigs.

1 I have studied this issue extensively. If
2 there is a major impediment to the supply of weanlings
3 and feeder pigs shipped from Canada, U.S. farmer
4 finishers of slaughter hogs are going to suffer, as
5 you have heard. Independent U.S. farmer finishers of
6 pigs can flourish only if they have Canadian
7 weanlings.

8 While some day the supply of U.S. born
9 weanlings will catch up to meet demand, it is likely
10 in my judgment that the large vertically integrated
11 packer conglomerates will gain at the expense of their
12 traditional independent farmer-finishers.

13 In particular, I have estimated in the past
14 that stifling the imports of Canadian weanlings would
15 jeopardize the livelihoods of about 1000 to 1300
16 independent farmer finishers. This would result in
17 losses of about \$420 million in gross farm income in
18 Iowa, Nebraska and South Dakota.

19 There is nothing injurious to U.S. farmers
20 about imports of weanlings and feeder pigs from
21 Canada. For U.S. farmer finishers, unrestricted
22 imports of Canadian weanlings are a part of the
23 solution, not part of the problem.

24 Thank you.

25 MR. INCE: Thank you. Our next witness is

1 Andrew Holtmann.

2 MR. HOLTSMANN; Good afternoon. My name is
3 Andrew Holtmann. I am with Phoenix AgriTec of
4 Winnipeg, Canada. Phoenix AgriTec brokers market hogs
5 and provides risk management services to the hog
6 sector in Canada.

7 In 2003, Phoenix AgriTec brokered a quarter
8 of a million market hogs for 30 producers in western
9 Canada. The majority of those hogs were brokered and
10 place in the U.S. market, the midwest in particular.
11 A necessary part of our business is knowing how the
12 North American hog industry operates, what the needs
13 of the industry are at each stage of production and
14 pricing arrangements in our market so that we can
15 deliver the most value for our customers.

16 We would not be in business very long if we
17 did not understand the industry and how the market
18 operates.

19 I want to discuss two issues with you today.
20 The first concerns trends in Canadian market hog
21 exports over the past three years and factors that
22 influence their flow. The second concerns the
23 relationship between prices for Canadian market hogs,
24 the United States and prices for U.S. market hogs and
25 specifically what if any impact Canadian have on U.S.

1 prices.

2 With respect to trends in Canadian hog
3 exports, historical volumes have been consistent and
4 steady. Over the 2000 and 2002 period, exports
5 consistently average between 35,000 and 41,000 head
6 per week in non-holiday shortened weeks.

7 Beginning in 2002, we witnessed a gradual
8 decline in volumes or historical averages. The export
9 trend trends down from roughly 37 head per week to
10 around 32,000 per week by mid 2003, reflection a
11 decrease in U.S. pork demand.

12 This morning you heard from the Petitioners
13 about the increase in Canadian pork imports since June
14 2003, but they neglected to explain the real factors
15 driving this increase. These factors include a
16 short-term disruption within the Canadian processing
17 sector resulting in a decline in slaughter capacity;
18 rising demand for U.S. pork in domestic and export
19 markets, another effect associated with the declining
20 U.S. dollar.

21 Starting with the disruption in the Canadian
22 processing sector, Maple Leaf Foods Winnipeg went on
23 strike in June 2003. Also in June 2003, Spring Hill
24 Farms, another Canadian packer with a capacity of
25 18,000 head per week, shut down without warning. This

1 posed immediate concerns for Canadian hog producers
2 with inventory that would normally be shipped to Maple
3 Leaf's Winnipeg facility or Spring Hill.

4 Canadian hog producers made alternative
5 arrangements to sell their displaced hogs in the
6 United States because there was insufficient slaughter
7 capacity in Canada. This increased the number of
8 slaughter hogs exported to the United States and
9 particularly to the midwest market, the closest
10 packing market for the Canadian market hog exporters.

11 There was simply no other option. Market
12 hogs cannot be stored. When finishing is complete,
13 they must move on to the packer for slaughter or the
14 entire production procedure is interrupted.

15 More importantly, once these displaced hogs
16 shipped, given the contractual arrangements with U.S.
17 packers associated with their shipments, the flow of
18 slaughter hogs would not simply revert back to
19 Canadian packers as quickly as it had moved down to
20 U.S. packers.

21 U.S. packers also had no desire to stop
22 buying the Canadian hogs. Exceptionally strong demand
23 for pork in both the U.S. domestic and export markets
24 maintained a pull for Canadian market hogs, even after
25 the strike ended at Maple Leaf's Winnipeg facility and

1 Spring Hill partially reopened.

2 During this period, the U.S. dollar lost
3 considerable value against other currencies. Canadian
4 hogs were needed to help meet the demand as well as
5 the hole left in the domestic protein market because
6 of BSE in the North American cattle herd.

7 Finally, I want to briefly touch on the
8 issue of price and the impact of Canadian hogs on
9 price discovery in the United States. U.S. packers
10 only negotiate a purchase price on 12 to 14 percent of
11 the hogs they buy. Outside of these sales, all other
12 sales are made using a formula price.

13 The most common formula is a swine or pork
14 market formula. Under this practice, the price
15 determined on the 12 to 14 percent of hogs where price
16 is negotiated is applied to the formula hogs. Because
17 of this, only 12 to 14 percent of the hogs purchased
18 set the price for 65 percent of all the hogs
19 purchased. Market hogs from Canada fall into the
20 category of swine or other foreign market formula.
21 All of the hogs my firm exports are sold using this
22 method. None of the hogs we export are negotiated,
23 therefore, they are not used for price discovery.

24 Because of this, they are not part of the 12
25 to 14 percent of the sales used to formulate prices

1 for most of the other sales. They simply do not hog
2 prices. Thank you.

3 MR. INCE: Thank you.

4 Our next witness is Don Hrapchak.

5 MR. HRAPCHAK: Good afternoon. My name is
6 Don Hrapchak. I am General Manager of SPI Marketing
7 Group in Saskatoon, Saskatchewan, a marketing
8 organization for Saskatchewan hog farmers.

9 One of my job responsibilities is to keep
10 track of all available market opportunities for
11 Saskatchewan hogs. You have already heard that the
12 live swine industry has many different specialized
13 segments. I would like to discuss the sale of sows
14 and boars for slaughter.

15 These animals are used as breeding stock and
16 are considerably larger than the normal 260 pound
17 animal. A boar can weigh between 500 to 700 pounds
18 when it goes to slaughter. Sows range in weight range
19 from 400 to 600 pounds.

20 Typically, 40 to 45 percent of all breeding
21 stock is culled each year. These animals that are no
22 longer required for breeding purposes are sent to
23 slaughter. Because of their size, not only is
24 specialized equipment required, but actually different
25 processing techniques are necessary. Labor

1 requirements, line speeds and governmental inspection
2 tasks are different than those needed for market hog
3 slaughtering.

4 Therefore, due to the extra high costs, high
5 volume throughput is required to make sow and boar
6 processing financially viable. Boar and sow meat have
7 different characteristics as compared to pork meat
8 from market hogs. The primary utilization of boar and
9 sow meat is in the manufacturing of sausages.
10 Oftentimes, the end product is a highly seasoned
11 product.

12 Boar slaughter in Canada is a rarity. Boars
13 that are killed in Canada and that are over 200 pounds
14 dressed can only be sold as boar meat and must be
15 labeled as such. Due to the move to artificial
16 insemination, the number of boars required for
17 Canadian hog production is declining. Therefore, due
18 to lower numbers, requirements for specialized
19 equipment and the limited market for finished
20 processed product, almost all boars are sold live to
21 the U.S. specialized boar plants.

22 Although Canada does kill substantially more
23 sows than boars, the same challenges that prevent boar
24 slaughtering affect the sow industry. Equipment must
25 be specialized for the sow kill plants. Market

1 opportunities for sow meat is also limited in Canada.
2 What we have seen within the North American market is
3 that several specialized U.S. packing plants,
4 particularly in the midwest, have developed a market
5 for various sausage products and have invested in
6 their facilities and in the specialized processes
7 necessary to use sow and boar meat.

8 Buyers gather sows and boars throughout
9 Canada and export them to the specialized U.S. plants.
10 The finished products, typically sausages, are
11 exported back to Canada for consumption. The number
12 of sow and boar exports will vary with the total
13 breeding herd.

14 I would also like to discuss the separate
15 trade in non-pure bred breeding stock. For the most
16 part, these animals are gilts, females, that will be
17 used as sows. They are typically sold at
18 approximately 200 pounds live. Selling the gilts at
19 this stage in their development allows them to
20 acclimate to their environment before they begin the
21 process of breeding. The export data now break out a
22 class of live swine over 50 Kgs not for immediate
23 slaughter. These numbers would represent hybrid
24 breeding stock.

25 In closing, I ask how the U.S. industry can

1 say that either category of these imports is injuring
2 them.

3 MR. INCE: Thank you.

4 Our final witness is Florian Possberg.

5 MR. POSSBERG: Good afternoon. My name is
6 Florian Possberg. I have been a hog farmer in the
7 province of Saskatchewan in western Canada for almost
8 30 years. Our older operations are all farrow to
9 finish where total production happens from breeding to
10 finishing on one site, but our newer facilities since
11 1995 are all three site production units.

12 There is no question that the unusual events
13 of 2003 caused major distortions in our marketplace.
14 As a result of finding one BSE case in Canada, the
15 export of Canadian beef was essentially cut off.

16 Canada historically has been a major
17 exporter of beef. No exports created a domestic
18 oversupply of our grown beef. Beef prices went down.
19 Increased consumption of beef in Canada in 2003
20 displaced pork consumption.

21 For example, in August of 2003, beef
22 consumption in Canada increased by 12 percent while
23 pork consumption decreased by 11 percent.

24 Because of BSE, all Canadian slaughter
25 plants, including pork packers, saw the value of one

1 of their byproducts, meat and bone meal, decline
2 significantly or, in some cases, actually have a
3 negative value. U.S. packers were not as affected.
4 Canadian operations were disadvantaged by this.

5 Besides the decline in domestic consumption,
6 BSE and SARS and other unusual issues in Canada raised
7 food safety concerns in export markets. One packer
8 told me he was asked by a Japanese buyer to guarantee
9 that his pork exports were SARS-free, even though pork
10 has never been associated with SARS.

11 As a result of lower Canadian pork demand,
12 two slaughter plants, West Perth Packers in Mitchell,
13 Ontario, and Spring Hill Farms in Neepawa, Manitoba
14 shut down in 2003. West Perth went bankrupt and
15 Spring Hill Farms shut down for about a two-month
16 period.

17 Other Canadian plants, particularly in
18 western Canada, responded to their losses by cutting
19 back on their volume of slaughtered hogs.

20 The nature of hog production is that hogs
21 need to be slaughtered. When a hog is ready for
22 market, we have a very tight window to market that
23 hog. Packers want very consistent weights of hogs and
24 will discount for lighter or heavier weights.

25 American plants were willing to pay higher

1 prices for hogs that would have normally been
2 slaughtered in Canada prior to the closure of Canadian
3 plants. U.S. plants generally are large, double
4 shifted plants and are much more efficient than the
5 Canadian plants at dealing with changes in supply.

6 In 2004, we are seeing the situation turn
7 around. Since January, hog prices in North America
8 have increased about 20 percent. International
9 markets have also strengthened. The Spring Hill Farms
10 facility in Neepawa reopened late last year and there
11 are efforts underway to reopen West Perth with a new
12 owner, Newco Pork, Inc.

13 Additional shifts are planned for the Olymel
14 plant in Red Deer, Alberta; a second shift there would
15 represent an additional 43,000 hogs per week. Maple
16 Leaf has also announced plans to add a shift at its
17 Brandon, Manitoba facility.

18 Further, a new plant owned by DuBreton in
19 Riviere-du-Loup, Quebec replaced one plant that burned
20 to the ground in October 2002. At the time, they were
21 slaughtering 12,000 hogs per week. They reopened in
22 November 2003 with a new plant and now can process
23 18,000 hogs per week.

24 In Saskatchewan, DMB Food Processors are
25 planning to build a facility that can kill and process

1 9000 hogs per week. This should be on line next year.

2 In Quebec, another plant at St. Alexandre
3 plans to increase its capacity by 5000 by year end.

4 A beef plant in Les Cedres, Quebec has also
5 been purchased for conversion to hog processing.

6 Finally, we are seeing signs that exportable
7 numbers of slaughter hogs in Canada are about to
8 decline. Statistics Canada data show that pigs over
9 20 kilograms, and not including the breeding stock, at
10 January 1, 2004 were 4.6 percent below the number for
11 January 1, 2003. Now, the pigs over 20 kilograms
12 represent hogs that will ultimately be available for
13 slaughter and their numbers are down.

14 Contrary to what the Petitioners would like
15 you to believe, the Canadian industry does heed market
16 signals. Building of hog barns in Canada has
17 virtually ceased. I am also aware of several
18 substantial hog operations, mainly farrow to finish
19 operations, that have gone into receivership or have
20 or may cease production completely.

21 Several slaughter plants are gearing up to
22 become more efficient double shifted operations. In
23 my own operation, the number of hogs sent for
24 slaughter to the United States has declined as
25 Canadian packers are taking increasing numbers of

1 hogs.

2 Ladies and gentlemen, in the last ten years,
3 both the American and Canadian hog industries have
4 become major exporters of pork in the international
5 marketplace. Free trade has allowed the industry on
6 both sides of the border to take advantage of each
7 other's strengths. I implore you to resist throwing
8 up artificial trade barriers, barriers which will
9 lessen our ability to compete in the highly
10 competitive international marketplace.

11 Thank you.

12 MR. INCE: Thank you. That concludes our
13 testimony.

14 Mr. Simon, you are next.

15 MR. SIMON: Good afternoon. My name is Joel
16 Simon. I'm here as counsel to J. Quintaine & Son,
17 Ltd., Baxter Transport, Ltd., and Zantingh Swine, Inc.
18 Some 19 years ago I appeared in proceedings on behalf
19 of P. Quintaine & Son. The son is now J. Quintaine
20 and his son is now working with him in the same
21 facility. At that time we argued before the Commerce
22 Department the International Trade Administration,
23 that sows and boars differ from slaughter hogs and
24 should have either a separate class or subclass and a
25 different rate of CBD if one was to be found.

1 At that time also the Petitioners in this
2 case, the same NPPC, did not oppose that determination
3 and as a result the RTA granted our request and a
4 subclass was found for sows and boars.

5 I'm here before you today to argue not only
6 that there should be a subclass, but I believe that
7 sows and boars are a totally different class and are
8 not a like product as this Commission would define as
9 other animals that are being complained of. As a
10 matter of fact except for Mr. Hrapchak and Ms.
11 Turner's two questions to Mr. Rosenthal I don't
12 believe there was much discussion at all about the
13 impact of sows and boars and the use of sows and boars
14 as slaughter animals in the United States.

15 But just briefly I wanted to refer back to
16 this Commission's decision in the 1999 cattle cases
17 where you discussed the question of what is the
18 Commission's standard for like or similar product and
19 you set forth five different characteristics or
20 factors. One were the physical characteristics and
21 uses of the product and I think it's clear anybody
22 looking at a slaughter hog and comparing it to a sow
23 or a boar would never confuse the two. Their physical
24 characteristics are totally, totally different. Sows
25 and boars weigh anywhere between 500 and 700 pounds;

1 slaughter hogs as the testimony given earlier today,
2 once they reach more than 250 or 260 pounds are really
3 not used, they're in trouble and they must be
4 slaughtered at that weight.

5 In addition, interchangeability, while you
6 might be able to make a slaughter hog, you might be
7 able to make sausage out of it, you cannot make fresh
8 meat out of a sow or a boar. The hormonal changes in
9 both those animals prevent the use of that meat for
10 anything other than sausages or well-sliced meat
11 products.

12 On the channels of distribution, even the
13 Petitioners have described that sows and boars are
14 both slaughtered in separate facilities, not only
15 separate from the packers that slaughter slaughter
16 hogs, but also separate facilities from each other so
17 that boars are slaughtered in facilities only used for
18 slaughtering boars and sows are slaughtered in
19 facilities for slaughtering sows and neither of them
20 are used, the slaughtering facilities are used to
21 slaughter slaughter hogs for fresh meat.

22 Customer and producer perception of the
23 product, I think it's clear from its face that these
24 animals, that the customer is not the same. A meat
25 packer does not buy sows and boars. These are made to

1 very specialized customers that buy the sows and boars
2 only for use as sausage meat or very heavily spiced
3 food, meat products. And the common manufacturing
4 facilities which was your fifth and last itemization
5 in your 1999 decision, common manufacturing facilities
6 I've already discussed also. They are not common
7 manufacturing facilities. The production processes
8 are totally different as are the employees.

9 As a result of this finding of a different
10 class there's no evidence at all in Petitioner's brief
11 or on the record that would indicate that any injury
12 exists to an industry in the United States as a result
13 of the importation of slaughter, of sows and boars.

14 Thank you very much.

15 MR. PORTER: That concludes the affirmative
16 presentation, Mr. Carpenter.

17 MR. CARPENTER: Thank you very much for your
18 presentations and for appearing here today before us.

19 We'll begin the questions with Ms. Turner.

20 MS. TURNER: Good afternoon, at this point.
21 It's Robin Turner, Office of the General Counsel.

22 Well, we finished off with like product and
23 I was going to start with that. Let me start first,
24 Mr. Simon, I'll have a few questions for you, but Mr.
25 Ince, actually I'd like to follow up or start with a

1 question for you that's very similar to what I
2 actually asked Mr. Rosenthal, and that had to do with
3 different positions between this case and the case in
4 the statements made in the 1999 review, five year
5 review.

6 At that point in time what was before the
7 Commission is the scope which we've just learned from
8 Mr. Simon has to do with the changed circumstance
9 review and the fact that part of the order was revoked
10 regarding sows and boars and weanlings.

11 The scope for the five year review was swine
12 for immediate slaughter. Now at that time I, and as I
13 asked Mr. Rosenthal this morning, the NPPC's position
14 was that it should just continue to be a domestic like
15 product that was the same as the scope and that meant
16 swine for immediate slaughter.

17 But CPC, which I believe you represented at
18 that point in time as well, CPC had a completely
19 different position and CPC's position was that it
20 should be a single like product and that the like
21 product should include all swine, including weanlings
22 because they were an integral part of the domestic
23 swine industry and that producers of those types of
24 sows and boars are generally the same as the producers
25 of the type of swine within the scope. I can actually

1 direct you to your pre-hearing brief at pages two and
2 three.

3 So I would like to ask you, you have
4 indicated in your opening remarks, it sounded like,
5 and maybe that's not your position but that you were
6 looking at possibly different like products. Mr.
7 Simon clearly is indicating that the Commission should
8 define separate like products.

9 The position of CPC in the 1999 review was
10 that there should be one, and in fact one that was
11 larger than what the scope was at the time but the
12 same thing as now. I'm first asking you what's your
13 position on the like product here is and if it is
14 different why it's different from what it was in 1999.
15 Thank you.

16 MR. INCE: The quick answer is I've seen the
17 light. The longer answer is, of course in the sunset
18 review we were dealing with a, shall we say a
19 tradition of an approach to how you deal with showing
20 injury from imports in a commodity situation where you
21 have basically one commodity and the economists use
22 their studies to show the price of, the effect on
23 price of increases in supply.

24 The industry certainly had started to change
25 by then but it has become a much more fragmented

1 product than it was then. I think that is the key to
2 dealing with it at this stage.

3 We certainly are arguing that there are
4 separate like products and I think the facts that
5 you've heard today bear that out. We will certainly
6 be putting more of those into our post-conference
7 brief.

8 MS. TURNER: So your position is now
9 different from the 1999 where now you're arguing
10 they're separate like products.

11 If you're arguing separate like products
12 we've got a couple of different types of separate like
13 products here. Mr. Simon has just gone through, he's
14 called it the five factor, but it's actually the six
15 factor. There's also price. That is our classic like
16 product or domestic like product factors, but that's
17 actually when you're comparing, and he correctly was
18 using it as comparing sows and boars which are at a
19 similar level of production.

20 What you're comments, your witnesses have
21 been discussing is more the distinction of the
22 weanlings in the different stages of production so I
23 take it you're arguing against it under a semi-
24 finished product analysis?

25 MR. INCE: No, I don't think it is a semi-

1 finished product. I think that we can make
2 distinctions based on the traditional criteria for
3 separate like product. We will do that in our post-
4 conference brief.

5 MS. TURNER: But you're arguing then the
6 Commission should not use the sow and boar is a
7 different issue, that weanlings up to slaughter
8 cattle, that the Commission should not use a semi-
9 finished like product analysis for that? And if
10 that's the case, can you explain why because that is
11 traditionally what it would do in that scenario.

12 MR. INCE: Well it has done that in the
13 cattle case, I know that. But I think there are
14 significant differences between this case and that
15 case which we will address in our post-conference
16 brief.

17 MS. TURNER: Mr. Porter, would you like to
18 elaborate on that, whether that's actually the
19 position of all the Respondents or is that the
20 position of just part of the Respondents?

21 MR. PORTER: Thank you, Ms. Turner. We do
22 not support separate like products for weanling and
23 market hogs. Not that we don't recognize that the
24 Commission needs to understand there are differences.
25 Where I come out on this, quite honestly, is that the

1 live cattle case was decided quite correctly. I think
2 what you get from the live cattle case is that you
3 must do a semi-finished analysis. What weanlings go
4 into become market hogs. I respectfully disagree with
5 Mr. Ince, you have to use a semi-finished analysis.

6 The problem you have with semi-finished
7 analysis in this context is it has an emphasis on sort
8 of end uses and customers and that, and you're sort of
9 then trapped that it's definitely all going to become
10 pork.

11 So our position is not to waste time on
12 separate like products, but to accept it is a single
13 industry but note that within the single industry
14 there are different products and the Commission has
15 noted that many times before when it has found a
16 single like product there are, if you will, different
17 products within the industry. That's the position
18 that we're going to have, and in particular to note
19 that there are different imports coming into the
20 country.

21 You had a lot of questions on that. I hope
22 I get some of those questions here because I have a
23 lot of comments on that, but with respect to like
24 product, we will on this particular point agree with
25 Petitioners it's a single like product.

1 MS. TURNER: If I can actually make one
2 comment about that, when the Commission has found a
3 single like product but has looked at things as
4 different I would say it would be segments of the
5 market and not different products once they've defined
6 a product --

7 MR. PORTER: As always, Ms. Turner, you're
8 correct.

9 MS. TURNER: But we would like from both of
10 you, I would also indicate further analysis in the
11 post-conference briefs. I would also indicate that
12 Mr. Ince, I would ask that in the post-conference
13 brief you indicate that the semi-finished product
14 analysis shouldn't be used. Since you actually
15 explain the difference, cattle did have sales at the
16 stocker, at the feeder, at the same type of different
17 stages as this and very active markets in those, so
18 why there would be a distinction here from that that
19 would require not using a semi-finished product
20 analysis.

21 Before I get to the question that I have for
22 you Mr. Simon regarding sows and boars, if I can
23 actually as a question first of Mr. Hrapchak. Sorry,
24 my pronunciation can be atrocious.

25 But my question has to do with, you had

1 indicated that boars and sows are culled each year,
2 about 40 percent to 45 percent are culled each year.
3 So what is the timeframe that we're talking about that
4 it goes to? Are we talking three years, four years
5 until a sow or boar is at their time period where
6 they're no longer an active -- 40 percent, that's
7 higher than I expected to hear.

8 MR. HRAPCHAK: Most of the sows would be
9 culled after a certain period of time and some of the
10 gentlemen here who actually raise pigs would be able
11 to explain a little bit better than I am. I just sell
12 them.

13 But normally the rule of thumb is
14 approximately 40 to 50 percent of total breeding stock
15 is culled every year.

16 MS. TURNER: If somebody can explain, or
17 indicate how many years that takes to get to that cull
18 point?

19 MS. POSSBERG: Keep in mind that the
20 gestation period for a sow is 114 days. So a sow can
21 actually have 2.7 litters in a year. And typically
22 sows aren't kept in the herd past eight parities. And
23 before the eighth parity a number of sows will be
24 culled for productivity reasons or whatever.

25 So in fact because there is quite a number

1 of litters within a year produced, and the normal
2 productivity length of a sow maxes out at eight
3 parities, we do end up with a 40 to 45 percent cull
4 rate on an annual basis.

5 MS. TURNER: Anybody else want to comment?

6 Mr. Simon, to you then on the like product
7 question.

8 You've indicated that sows and boars should
9 be defined as a separate like product, domestic like
10 product. I guess my question is are you suggesting
11 that sows are a separate domestic like product and
12 boars are a separate one? Or that a combination of
13 sows and boars should be a separate like product?

14 MR. SIMON: If we apply all of these then
15 the sows and boars are two separate like products
16 because, I didn't answer the question, address the
17 price. Right before I walked in here I got a call
18 from my office that one of our clients called to say
19 that sows were about 10 to 12 cents a pound less
20 normally than slaughter hogs and boars were even less
21 than sows. So that there is a difference in price
22 between sows and boars. There's a difference in
23 production facilities between sows and boars. There's
24 a difference between physical characteristics between
25 sows and boars. There's a difference between the end

1 use of sows and boars.

2 MS. TURNER: So you're indicating they're
3 not --

4 MR. SIMON: You don't mix them.

5 MS. TURNER: They're not both used for
6 sausage though?

7 MR. SIMON: There may be some things you
8 might use boar meat for because it's very heavily
9 spiced, kinds of meats, and maybe some of the very hot
10 sausages or something. I'm not certain. That's
11 something we'll address in our post-hearing brief.

12 MS. TURNER: One thing you look at in
13 looking through those factors is in fact the
14 Commission, when they look through those factors, if
15 there are some general, and you're somewhat comparing
16 those to the rest of the swine industry, whether those
17 two would be comparable with being one or whether they
18 would be so distinct from each other to be a clear
19 dividing line between them.

20 Is there industry data in the USDA on sows
21 and boars separately regarding all of the types of
22 data that we have actually been looking at and will
23 look at here as well as import data on it?

24 MR. SIMON: I believe there is data on sows
25 and boars separate and apart. I'm not sure whether

1 its USDA or from the Canadian side. One of the
2 problems on the Customs side from imports is that it
3 will fall into the category of swine over 50 kilos and
4 they don't differentiate between 50 and 200 kilos.

5 MS. TURNER: So the import data will not be
6 able to be broken down between sows and boars and all
7 other live swine?

8 MR. HOLTMANN: Actually I believe sows and
9 boars are a separate category of import data that is
10 reportable on the U.S. side.

11 MR. SIMON: Not on the Customs side. Maybe
12 from the USDA --

13 MR. HOLTMANN: The USDA does report the
14 import of Canadian sows and boars separately from both
15 finished hogs as well as weanlings.

16 MS. TURNER: Whatever can be provided in
17 post-conference briefs with that information would be
18 very helpful.

19 I had asked Petitioners this morning to just
20 go through the different four stages, actually it
21 somewhat seems like a bit more of three stages of
22 production facilities and operations to clarify
23 whether we were discussing the right terminology. Mr.
24 Friesen, you actually went through some of this as
25 well.

1 I guess my question here rather than
2 repeating and asking it as directly was more, was what
3 they indicated this morning what you would
4 characterize, in addition to what you've actually
5 stated, but do we have the right idea of what happens
6 from the farrowing and the types of different
7 operations that are involved?

8 MR. FRIESEN: Yes, you do. The only little
9 thing that kind of threw you I think was the concept
10 of wean to finish barns. That's an emergence. It's a
11 very small part of the industry. Some of our
12 customers do buy these baby pigs and they put them
13 right into that barn and they keep them there right to
14 slaughter weight. I think that was a little bit
15 confusing. But by and large most of the people that
16 bring in these baby pigs, whether from their own
17 farrowing houses or if they bring them in from the
18 Carolinas or from Canada, they put them into nurseries
19 and keep them there for about seven weeks and then
20 they take them to these finishing houses, much bigger
21 facilities. The same number of head, they just need
22 more space as they get bigger, and they finish them
23 there.

24 MS. TURNER: Part of what your comments
25 were, I got the idea from your comments you were

1 stating about changes in the Canadian production
2 system, the somewhat evolution from a family farm to
3 the more industry-wide family farm. What we have as
4 Farm Aid actually deals with sort of in the United
5 States here.

6 But are you, you're not indicating that the
7 Canadian system is different from what the U.S. system
8 -- Have both of them evolved like this, or is it the
9 fact that Canada has evolved differently from the
10 U.S.?

11 MR. FRIESEN: Basically not a huge
12 difference other than the distinction I was trying to
13 make there was that there was a lot of little hog
14 operations when they just say they'd go out of
15 business or they'd cease operations, they made this
16 like so terminal. I'm suggesting that the bulk of our
17 customers, they changed their operations. Lots of
18 them, they just went in there, the same barn their dad
19 built, they went in there and renovated, changed
20 things around, and now they have the ability to buy in
21 -- Instead of dealing with all these pseudo rabies and
22 purrs and swine flus and hired help and all this stuff
23 they just decided to buy in these baby pigs and feed
24 those pigs all the way to market. That's what they're
25 good at. That's the evolution I was trying to change.

1 And in Canada, lots of people that I
2 represent, they didn't have access to the corn in
3 western Canada, in my province particularly, we had
4 issues with grain supplies. They simply said the
5 cheapest thing I can do, the best thing I can do is
6 sell these baby pigs, there are Americans coming up
7 here. They want to pay a reasonable return for them.
8 They're willing to give me a long term contract. I'll
9 just take my finishing barn and put sows in there and
10 I'll take my nursery barn and weld up some farrowing
11 crates and put these farrowing crates in the nursery,
12 and suddenly he's got from a 600 sow operation, farrow
13 to finish, he's got a 1200 sow farrow to isowean, then
14 he just drives right past Maple Leaf and right on down
15 to Iowa. So that's the evolution I was trying to
16 explain. And lots of times it's their own kids
17 helping in the barn, and it's a family farm in many
18 cases.

19 MS. TURNER: I guess, and this would
20 actually be more for the attorneys to just address,
21 well actually anybody from the industry. I mean I'm
22 hearing that the Canadian and the U.S. products are
23 virtually the same. There's an interchangeability,
24 there's a high degree of substitutability between
25 these products. It sounds like in terms of Mr. Howard

1 is describing that he goes from one phase to the other
2 and it becomes, it's a joint Canadian-U.S. product.
3 So if that's the case I would be surprised if I'm
4 hearing that there's not substitutability between, in
5 fact, the products are not at different levels, but
6 the fact that whether the Canadian -- the different
7 levels is a different issue. I'm talking about, Mr.
8 Rosenthal actually talked about a pig is a pig is a
9 pig. I mean are there wide differences between
10 Canadian pigs and U.S. pigs? At the same stages of
11 development.

12 MR. PORTER: I'd like to ask a couple of our
13 industry witnesses. On the whole, you're looking at
14 sort of what I call looking at 30,000 feet, and I
15 think the answer is no. I don't think, but part of
16 the development of the industry, and we heard about it
17 from Mr. Friesen and Mr. Howard, just that because of
18 the land and the cold, that the farrowing developed in
19 Canada let's say a little bit faster and better than
20 it did in the United States. And what -- If you take
21 it on an individual isowean basis I think you're going
22 to see you're not going to find a huge difference
23 between an isowean that's coming across the border,
24 and isowean that's coming from North Carolina.

25 What Mr. Friesen and Mr. Howard and Mr.

1 Mistelbacher were trying to sort of get at though is
2 expand your view a little bit. What the statistics
3 absolutely demonstrate is that the Canadians are
4 better producers of farrowing and the isoweans. The
5 statistic that Mr. Howard mentioned, 24 pigs per
6 litter versus 18 is a huge difference. And so while
7 on an individual isowean basis, no. As a sort of
8 industry there are some differences.

9 MR. INCE: Mr. Possberg?

10 MS. POSSBERG: Just to add to that, by the
11 way, it's 24 pigs per sow per year, not per litter.
12 But it's a small thing.

13 MR. PORTER: I stand corrected. Thank you.

14 MS. POSSBERG: He's not a hog farmer, I am.

15 Generally speaking there is quite a
16 difference in productivity if you can maintain a high
17 health status of the unit in the breeding operation.
18 And there's a computer recordkeeping system in North
19 America called Pig Champ. They do a large number of
20 herds in both Canada and the U.S.. Now the top ten
21 percent of breeding herds in the U.S. in 2002 produced
22 23.4 pigs per mated female per year. That same number
23 in Canada was 25.6.

24 The environment, temperature of our herds,
25 mean that our herds generally are a lot higher health.

1 Generally. Not all the time, but generally.

2 Iowa and Minnesota and Nebraska are a huge
3 user or a market for feeder pigs from all over North
4 America. From North Carolina, from Texas, from
5 Canada. And what the Petitioners have focused on is
6 the pigs from Canada. But in fact if you go a little
7 deeper into analysis you'll see that Iowa has taken
8 more pigs from anywhere outside their area because
9 they have gotten so very efficient at finishing hogs
10 and have a real disadvantage producing isoweans or
11 feeder pigs.

12 So it's a natural evolution based on
13 economic advantage.

14 MS. TURNER: But even though Iowa is a big
15 market, it still is only a portion of the U.S. market,
16 and so I guess we've got to look at the whole domestic
17 market. The question I'm getting is, or the comment -
18 - If I'm wrong on this please indicate, but the fact
19 is that when you've got different areas and different
20 people who might specialize in different areas and
21 have different efficiency that when the bottom lines
22 comes to whether the hog at slaughter of a Canadian
23 hog or a U.S. hog, that they basically are
24 substitutable for each other depending on there might
25 have been during the different stages of production,

1 there might be certain places that there were more
2 efficient operations, but that the ultimate product
3 ends up being interchangeable and substitutable.

4 MR. PORTER: Ms. Turner, yes, you're
5 correct. At the market hog stage I don't think anyone
6 is claiming that there's a big difference between a
7 Canadian market hog and a U.S. market hog. But I
8 really need to go back to this issue of what you call
9 sort of phase of development. We can't lose sight of
10 the ball which is what is coming across the border?

11 What's coming across the border, a vast
12 majority are feeder pigs. The vast majority of the
13 feeder pigs are isoweans. The law requires you to
14 look at what's coming across the border.

15 An Isowean is a ten pound pig that's coming
16 across the border. That's what we need to focus on.
17 That's a very different product than a 260 pound hog.
18 And there are a lot of issues to get into, and some of
19 them are complex and you've identified them already,
20 but I really think that just saying a Canadian market
21 hog and a U.S. market hog are substitutable, that's
22 the end question. I think that a little bit misses
23 really what we should look at, what is coming across
24 the border.

25 MS. TURNER: Well looking at the U.S.

1 official import statistics you're right, the category
2 of the just weaned or the seven kilogram is a
3 substantial number, but actually a third of all
4 imports and the amount that come in at seven kilograms
5 is actually only, is smaller and substantially smaller
6 than the amount that's coming in for immediate
7 slaughter.

8 So when you're making that argument, the
9 amount that comes in under the seven kilogram is
10 1446950 --

11 (Pause)

12 It's still, a third of all the imports are
13 coming in for immediate slaughter. So I think when
14 you're making that you need to --

15 MR. PORTER: Again, the data will be the
16 data. I don't deny there is a volume of market hogs
17 coming in for immediate slaughter, absolutely. All
18 I'm saying is that we always need to remember there is
19 a big difference between an isowean and a market hog.
20 That's all.

21 MS. TURNER: We understand that, but I'm
22 just saying you're also trying to make the argument,
23 it seems, that in fact they're all of the seven
24 kilogram and that we should be focusing on that, and
25 we have to look at all of the different -- If that's

1 what you're trying to argue then yes, we are looking
2 at all of them, but we're also looking at the third
3 that are coming in for immediate slaughter.

4 If I can ask, and this would be for the
5 attorneys. This was something that I asked this
6 morning. In terms of at what stage of development
7 swine becomes a domestic product. The fact is, you do
8 have the, you've been indicating that two-thirds of
9 the imports are coming in at the weaned and the feeder
10 stages, a third are coming in at the market for
11 slaughter stage. The fact is, are those weaned and
12 feeder cattle would you indicate using the traditional
13 factors that the Commission looks at for determining
14 whether something actually should be deemed to have
15 sufficient production related facilities or actually
16 operations to be deemed a domestic producer. If you
17 would go through that analysis for us.

18 MR. PORTER: Okay. I'll sort of state, I can
19 sort of state it now and I'll put the one paragraph in
20 our brief.

21 We do not at all believe that any of the
22 finishers that are importing the isoweans or even the
23 feeder pigs, we believe they're all bonafide U.S.
24 producers. We are not going to ask for the Commission
25 to employ the related party analysis. We believe

1 they're all bonafide U.S. producers. In fact our
2 position is that a feeder pig, either the isowean or
3 the feeder pig that comes in becomes a U.S. market hog
4 that's raised by Americans, fed by Americans, and most
5 importantly, priced by Americans.

6 MS. TURNER: Actually, there's actually two
7 different things the Commission will have to look at
8 and one will actually be whether in fact there's
9 sufficient domestic production to be deemed a domestic
10 producer under, there's six factors that the
11 Commission looks at regarding the value-added. If you
12 would go through those in addition to going through
13 the related party analysis as to whether in fact the
14 ones that import are related parties.

15 Mr. Ince, do you have -- do you want to add
16 something there?

17 MR. INCE: We'll address that in our post-
18 hearing.

19 MS. TURNER: Thank you.

20 Actually though, that raises a question
21 because Mr. Howard has indicated that his operation is
22 one type of operation that imports, that I take it
23 that Premium Pork owns both the Canadian farrowing
24 operation as well as owns the finishing operations in
25 the United States. Is that correct?

1 MR. HOWARD: That's correct. We own the
2 farrowing operations in Canada and we own part of a
3 company that finishes the hogs, and we have a
4 partnership with a U.S. management company that
5 manages the hogs in Iowa and raises them to slaughter.
6 And we in turn work with about 86 different feeders
7 and finishers that on a contractual basis to raise our
8 pigs. So it's very much a group effort in the U.S..

9 MS. TURNER: But your finishing operations
10 are not something that are owned actually by Premium
11 Pork?

12 MR. HOWARD: No.

13 MS. TURNER: So the ownership is only --

14 MR. HOWARD: The ownership is in the pig
15 only. From Canada.

16 MS. TURNER: So you toll out the, your
17 operation is a --

18 MR. HOWARD: Our U.S. partner basically is
19 ranged for the finishing contract with multiple
20 farmers in Iowa.

21 MS. TURNER: So you own the pig through the
22 whole operation and you toll out --

23 MR. HOWARD: With our U.S. partner. That's
24 correct.

25 MS. TURNER: So you do have a U.S. partner

1 that you're owning this with.

2 MR. HOWARD: Yes.

3 MS. TURNER: If when you're addressing the
4 related party issues there is, there's the ones where
5 there is direct sale of the pig and there are other
6 operations where in fact there's obviously the
7 ownership of it. If you can -- There is a distinction
8 between that and if you can address that in the
9 related parties where you're dealing with the
10 indirect, somebody who might be an importer of record
11 as opposed to just as having direct ownership of the
12 operation, that they are in fact doing in the United
13 States.

14 MR. PORTER: Again, we will address that in
15 our post-conference briefs. I would just note that
16 because of the type of industry I can use Premium Pork
17 as an example, but I don't think there are records
18 that indicate the universe of ownership between some
19 of the Canadians and the U.S.. So I think what I'll
20 do is I'll address it on a conceptual level.

21 First, what is sufficient U.S. production?
22 And then address whether, taking Mr. Howard's
23 operation as an example, where their economic
24 interests lie. Is it in the finishing and that is the
25 sort of producing of the market hog, or is it in the

1 import which is what the statute asks you to look at.
2 So again I can do that on a conceptual level, but it
3 would be hard for me to sort of say here is the
4 numbers of all the different relationships. I just
5 don't have that data.

6 MS. TURNER: I understand that. I'm talking
7 about the difference between the types of
8 relationships. I means there's definitely a
9 relationship where somebody has, which we heard talked
10 this morning from I believe Mr. Caspers who has
11 imported and there's a make and buy decision as to
12 whether they're going to import or not. Then there's
13 the difference between subsidiaries in a sense, direct
14 control, and a decision to completely do that and
15 whether that kind of related party is different from
16 one that might be or might not be, depending on the
17 fact of whether they're an importer of record or not a
18 related party. That's the kind of distinction that
19 I'd like to have discussed.

20 MR. PORTER: Understood.

21 MS. TURNER: Maple Leaf is slaughter
22 operations, right?

23 MR. GOULD: We're involved in both slaughter
24 and hog production, amongst other businesses.

25 MS. TURNER: Has Maple Leave increased

1 capacity or decreased capacity to slaughter?

2 MR. GOULD: Yes, we have.

3 MS. TURNER: Can we be provided the
4 information that?

5 MR. GOULD: Sure, we'll give you a history
6 on that expansion.

7 MS. TURNER: I understand there also were
8 comments made about the closure and actually this was
9 something that was made by I believe Mr. Holtmann as
10 well as Mr. Possberg made this afternoon about the
11 fact of slaughter facilities closing. Maple Leaf was
12 closed due to a strike in 2003, but Springhill I
13 believe it was also shut down in 2003. Nobody quite
14 explained why.

15 MR. GOULD: That's not a Maple Leaf plant.

16 MS. TURNER: No, I know that. I was actually
17 asking, sorry I moved on to ask --

18 MR. MISTELBACHER: The Springhill plant
19 started back up again.

20 MR. FRIESEN: It was actually a labor issue
21 but they went through a restructuring. It's a long
22 union thing and stuff. So they just shut down for a
23 minute and then, because they ran out of money and
24 stuff, then they went back and sold off some assets
25 and this and that, restructured, and then they went

1 back into business.

2 MS. TURNER: Mr. Holtmann, do you also have
3 a response to that?

4 MR. HOLTSMANN: Springhill ran into
5 operational issues and they stopped slaughtering hogs
6 in June of 2003. At that time their capacity was
7 18,000 hogs per week. They then resumed slaughter
8 again at the end of September 2003. Because of the
9 work stoppage there they did lose a contract to
10 provide pork or hog carcasses to another customer.
11 Because of that they resumed slaughtering at only
12 10,000 hogs per week and they're still slaughtering at
13 that level. They have yet to make it back to their
14 pre-closure level of slaughter.

15 MS. TURNER: But it was a production
16 operation, I mean was it the facilities were
17 antiquated or I'm still trying to find out why exactly
18 they shut down.

19 MS. POSSBERG: I think more than anything
20 else, Springhill plant focused a lot more on export
21 particularly to Japan so a lot of the processed hogs
22 out of that plant were destined for particularly the
23 Japanese market.

24 Japan had quite a buildup in supplies of
25 pork in their storage, and also Japan was kind of

1 being supplied vigorously by Denmark and other places.
2 So really their key market, the Japanese market for
3 their product kind of dried up on them.

4 MS. TURNER: But wouldn't they have been
5 able to actually, I mean they slaughter other swine
6 and there was excess supply of swine, so consequently
7 I don't quite understand why they would close if it
8 wasn't for the fact that there was something wrong
9 with the equipment or there was a labor shortage where
10 nobody was there to do this, if it was the fact that
11 the market for them, wouldn't they be able to gain a
12 market from others that might have been imported to
13 the United States, or go and --

14 MS. POSSBERG: They told us they were having
15 trouble moving product because of the Japanese
16 situation. they were losing, they said, \$20 to \$30
17 per hog processed and quite frankly, they just ran out
18 of money so they had to shut their doors for a period
19 of time, try and regain financing so they could
20 operate. And in fact when they did open up their plant
21 some of the market conditions got somewhat better and
22 financially it was feasible for them to get back into
23 operation.

24 So they made their decision for shutting
25 down based on their own operation, the profitability

1 of their own operation at the time.

2 MS. TURNER: So slaughter capacity in Canada
3 was constrained even though there was supply of
4 Canadian pigs for slaughter to, it had to find another
5 place to be slaughtered? I don't quite understand --

6 MR. GRIER: The primary message of my brief
7 presentation was simply to convey that my data showed
8 that Canadian packers had an exceptionally poor year
9 due to the rapid appreciation of the exchange rate and
10 the result of impact of BSE, so the data shows our
11 Canadian packers did very very poorly relative to
12 American packers. One of them managed to recover and
13 get back on his feet. Another one has not. A
14 relatively smaller one, although we hear stories that
15 a new owner is coming.

16 Other packers throughout Canada simply
17 slowed down their slaughter during that summer of
18 2003. They've picked up since that time. So my view
19 is that it's strictly very very poor, unique financial
20 returns during 2003.

21 MS. TURNER: But if there's swine available
22 for slaughter and there's the capacity to slaughter
23 them in Canada, I don't quite understand why in fact
24 they're not being slaughtered in Canada if they've got
25 the capacity. I guess that's where there's a

1 disconnect here as to why a Canadian slaughterhouse
2 would have to close down if it wasn't for the fact
3 that production, I mean if in fact there was less
4 swine then I could understand why they would close
5 down. But the fact was there wasn't less swine being
6 produced so why would they not be, why would the
7 slaughterhouse in Canada not be used?

8 MR. HOLTMANN: The ability to procure swine
9 is independent of the ability to sell the meat, and
10 Springhill Farms is killing below capacity not because
11 they're unable to procure the swine, it's because
12 they're unable to sell the meat from that.

13 MS. TURNER: So you're saying that they're
14 actually being, the slaughterhouses are not
15 slaughtering swine for an independent then sale to
16 someone else -- they already have those contracts and
17 they would not have contracts to sell to the market?
18 Is that --

19 MR. HOLTMANN: That's correct. They
20 currently don't have the ability to sell the extra
21 kill capacity that they have the ability to sell --
22 they simply cannot move that meat and that's why
23 they're not producing pork they can't sell.

24 MR. RICE: Mr. Grier's study indicated these
25 plants were actually losing money per animal

1 processed. It didn't make economic sense, they were
2 dealing with these conditions, the implications of the
3 BSE, the loss of domestic market demand due to a
4 substitution of beef, and the effect of the exchange
5 rate which had not had opportunities yet to absorb all
6 of those, with the exchange rate changes they had a
7 lower return relative to their costs than their U.S.
8 competitors. So there was a period of time when they
9 just simply were losing money per animal, were not
10 able to bid enough to either stay in business or in
11 other cases to process as many animals as they had
12 been before those two factors had occurred, the BSE
13 and the rapid rise in the Canadian dollar.

14 MS. TURNER: The lawyers I think will
15 probably want to put their take on this when they file
16 their post-conference briefs, but this sounds to me
17 like slaughter capacity, the constraints on slaughter
18 capacity in Canada and inefficient slaughter capacity
19 in Canada are a reason for the imports into the United
20 States?

21 MR. PORTER: That's exactly right, Ms.
22 Turner. What we are explaining is, you heard, you
23 might have heard this morning, you definitely heard
24 this afternoon, if you look at sort of a five year,
25 Mr. Grier described a five year decline in slaughter

1 hog exports to the United States, year after year,
2 there was decline or gradual decline. Then you see
3 this little bump up in 2003. Petitioners would say
4 that's because of the desire to dump and subsidize and
5 all that.

6 What we're explaining in the real world
7 there are sort of external, temporary events that
8 caused shipments originally destined for Canadian
9 packing houses, to have to because they have to be
10 moved, they have to go to market at that time. You
11 had a packing house close down for awhile, another one
12 went on strike, in that area there was no where to
13 ship the swine so that caused them to go south to the
14 United States. It was a temporary situation which as
15 we've heard, has now corrected itself.

16 So that was the purpose of the explanation
17 of what happened to this one facility and the strike
18 at Maple Leaf.

19 MS. TURNER: Let me move on.

20 I asked the same question though they
21 actually had provided some information in the
22 petition, so in fact in terms of respondents who
23 haven't provided this information to us please provide
24 as much detail about it in your post-conference brief.

25 The Commission generally is using public

1 available data regarding the domestic industry and
2 imports obtained from public sources including USDA
3 and Customs data. The Commission would like to
4 provide an opportunity to you to provide any comments
5 regarding whether you agree or disagree with the
6 Commission's use of such data sources, and if you
7 disagree or that you think certain data is not
8 accurate please provide explicit explanation as to why
9 and what you think would be -- but don't just discount
10 the information. We do need, as you're well aware, to
11 actually look at all kinds of information so we'd like
12 to know what you then think we should be looking at.

13 MR. PORTER: We will do that.

14 MS. TURNER: I want to add, there are a
15 couple of other data questions that I had asked of
16 Petitioners' counsel that I want to ask you as well
17 and that has to do with the ITC, whether the ITC
18 should consider data by weight or by head, taking into
19 account the fact of the different stages of
20 production. As well as the methodology for
21 calculating market share and for calculating demand
22 which were things that I believe it's a footnote in
23 the cattle final opinion, footnote 102. As I had
24 indicated this morning there was quite a discussion of
25 that. If you would discuss that in your post-

1 conference briefs as to first which kinds of data,
2 head or weight, we should be using. The Commission
3 has used both in the past but has decided that one had
4 more, should be provided more weight to it than the
5 other one.

6 MR. PORTER: We've looked at that and we
7 will comment in our post-conference brief.

8 MR. INCE: Likewise.

9 MS. TURNER: Thank you.

10 In terms of the import statistics data, I
11 had asked a question this morning regarding the
12 different categories and that had to do particularly
13 with the category of the 50 kilograms and above for
14 immediate slaughter. I guess this is something as
15 well that you can provide more information on this in
16 the post-conference brief, but do you agree with what
17 Petitioners' comments were this morning that in fact
18 most of the things in that category would in fact be
19 for immediate slaughter?

20 MR. PORTER: At least on our side we would
21 agree that that category is a nice proxy for market
22 hogs.

23 MR. STOTT: Except I would estimate that
24 potentially on a weight basis it may be as much as 10
25 or 15 percent that may be in sows and boars.

1 MS. TURNER: Of that category?

2 MR. STOTT: Of that category. Not on a head
3 basis, but sows and boars may be two to two and a half
4 times the size of a slaughter hog.

5 MS. TURNER: Any information that you can
6 then provide on this in the post-conference brief
7 would be helpful. I take it then you consider the
8 official import statistics to be accurate data for us
9 to be using?

10 MR. PORTER: With respect to quantity, with
11 respect to head and kilograms, yes. We will describe,
12 because it involves confidential information we have
13 discovered that there was some anomalous reporting
14 with respect to the data, innocent, inadvertent, but
15 that it does affect the value of certain other
16 categories and we'll elaborate more in our post-
17 conference brief.

18 MS. TURNER: I had asked some questions
19 regarding price, some broad questions, and Mr. Gehrke
20 asked some much more specific so let me ask you the
21 same broad questions. Is there a national market for
22 the price of swine in the United States that anybody
23 is importing into it sees?

24 MR. HOLTMANN: Yeah, I guess the Petitioners
25 had mentioned there was one national market and they

1 mentioned the Iowa-Minnesota market. I believe more
2 correctly there are three major markets for swine in
3 the U.S.. The Eastern Corn Belt, the Western Corn
4 Belt, and the Iowa-Southern Minnesota market. They're
5 comparable in all three as collected and reported by
6 the USDA on a daily basis.

7 MS. TURNER: Are there different prices in
8 each of those and one drives the other? OR are they -
9 -

10 MR. MISTELBACHER: They're geographical.

11 MS. TURNER: No, I understand they're
12 geographical, but the fact is, is when the price will
13 switch because of supply in one of those markets, say
14 the Western Corn Belt market. When that starts to
15 switch, it might go up a little bit, will the others
16 follow suit as well as the other secondary markets or
17 --

18 MR. MISTELBACHER: It would be freight
19 related. You can only go so far before someone would
20 arbitrage the difference.

21 MS. TURNER: So you're actually saying
22 there's not really a national price market, you're
23 saying there are more regional markets I think by what
24 you're saying, that they would have -- eventually they
25 might equate out because of a big difference, but that

1 at any one time the three different markets and
2 surrounding areas in a sense, depending on the
3 freight, would actually end up being, moving in
4 different directions possibly or being different.
5 They aren't actually --

6 MR. HOLTSMANN: There are subtle price
7 differences between the different regions and from one
8 day to the next. We're talking a change of a few
9 cents. But over the period of a week, a month, a
10 quarter, a year, they all tend to move in response to
11 the same information by the same magnitude.

12 MS. TURNER: Okay. Is any one of those
13 three driving it or is it --

14 MR. HOLTSMANN: I have never seen any
15 information to indicate that one would drive the other
16 two markets.

17 MR. PORTER: I'd just note, the good thing
18 is all these prices are completely available. As
19 you're well aware there's a mandatory pricing of
20 purchases of market hogs or slaughter hogs, and we
21 have collected, going back five years, weekly prices
22 for each of the three reasons for five types of
23 different contractual arrangements. So the point is,
24 the data is there. A lot of your questions about
25 correlation and all that, it's real easy to do an

1 analysis.

2 MS. TURNER: And I take it you're going to
3 provide all that to us in your post-conference brief,
4 since we don't have that at the moment and don't know.
5 That's why we're asking a lot of these types of
6 questions.

7 MR. HOLTMANN: Of course.

8 MS. TURNER: The Canadian market, does it
9 take its price from the three U.S. markets, or the
10 three key regional U.S. markets, or is it completely
11 separate?

12 MR. HOLTMANN: No, it's entirely dependent
13 on the price in the U.S. No price discovery takes
14 place in Canada. It's entire formula pricing and the
15 root to the formula is these three U.S. hog markets.

16 MS. TURNER: Okay, so I had asked, actually
17 in follow-up to what Mr. Deyman had asked for,
18 actually Canadian pricing data. Are price data trends
19 data over a period of however many years you have it;
20 if that's something that you could provide, as well?

21 MR. PORTER: Well, I guess, you mean for our
22 market hogs?

23 MS. TURNER: For market hogs, or if there
24 are ones for feeder hogs, as well, whether Canada has
25 some kind of data that shows that.

1 MR. PORTER: We will look at if the data
2 exists, but I kind of want to just reiterate what was
3 said. All prices in Canada are based on U.S. indices.

4 MS. TURNER: Yes.

5 MR. PORTER: So, I mean, it's just it's not
6 like in Japan or China. There's not a separate price
7 there. It's all based off the U.S. indices.

8 MS. TURNER: But if there is some kind of
9 sort of historical data over a period of showing us,
10 then we can actually look at seeing how the
11 correlation would go?

12 MR. PORTER: We'll see what exists.

13 MS. TURNER: Thank you; I had asked the
14 question and we had talked -- actually, Mr. Carpenter
15 had actually follow-up on this, on the optimal weight;
16 and whether, in fact, there's generally an optimal
17 weight and it's discounted for different weights.

18 What we heard was that it really had to do
19 with, in fact, the size because of the production
20 operation and what fit best, as opposed to the quality
21 of the meat. Do you agree with the statements that
22 were made this morning or do you disagree; and if you
23 disagree, can you support that?

24 MR. PORTER: I'm going to ask those who sort
25 of have packing operations to respond to that.

1 MR. GOULD: Can you just repeat the question
2 again?

3 MS. TURNER: The question was the one that I
4 had started on this morning of asking whether, in
5 fact, the period of time when swine generally are at
6 their optimal weight, and thus, would receive their
7 best quality grades.

8 But then Mr. Carpenter had followed-up, as
9 well, and asked a number of questions that got into a
10 complete discussion about the movement and that there
11 were these short time periods of movement.

12 Then we also got into finding out that the
13 reason there was discounts between a 200 pound and
14 something over 300 pounds in terms of a hog, had less
15 to do with the quality, or had nothing to do with the
16 quality of the meat; but had to do with the fact that
17 the processing was geared towards a 260 pound.

18 I'm just asking whether you agree with
19 basically what was discussed through those different
20 discussions this morning, or whether you got a
21 different take on it?

22 MR. GOULD: Yes, we procure all of our own
23 hogs in the same way. We pay on an index level where
24 we're looking for tight weight ranges with certain
25 loin-eye depth. We target hogs of a certain size. So

1 to the extent that somebody is outside of that range,
2 it penalizes them on the amount of money they receive.

3 MS. TURNER: And it's not because of the
4 quality; it's just because of this processing?

5 MR. GOULD: It's the way our lines are set
6 up.

7 MR. MISTELBACHER: Size matters -- for the
8 Japanese market, there are certain sizes of loins. If
9 you're too big, depending on what your definition of
10 quality is -- if you're saying meat quality, we would
11 have to say that an extra large hog, for us, is a
12 lower quality hog. It has to go into a lower quality
13 sale.

14 MS. TURNER: I think though, what we're
15 using as quality is whether, in fact, the meat
16 actually itself would be different.

17 MR. GOULD: No, it may taste the name, but
18 you get a certain premium from your customers for a
19 certain size loin.

20 MS. TURNER: Okay.

21 MR. GOULD: To the extent it's beyond that,
22 you get penalized with your customers.

23 MS. TURNER: Is the time period for the
24 optimal period -- five to ten days, I believe, is what
25 they said this morning?

1 MR. GOULD: I would assume that's pretty
2 close. I don't have those statistics readily
3 available.

4 MS. TURNER: Does anybody have that?

5 MR. ASNONG: It's about five to ten days.
6 It's also depending on the packer we deal with. Some
7 of the window of degree may be wider than others, but
8 I think five to ten is a fair statement.

9 MS. TURNER: I only have a few more
10 questions. My next question has to do with the hog
11 production cycle. We were hearing this morning, I
12 mean, the typical hog production cycle is a four year
13 cycle with two years up and two years down. Is that
14 how you would classify the hog production cycle?

15 MR. HOLTMANN: No, I think we disagree with
16 the Petitioners on the hog cycle. I would agree that,
17 on average, historically, it's lasted about four
18 years. We tend to view it as more of a three phase
19 hog cycle, an up phase, a stability phase, and then a
20 down phase; not necessarily an up and a down phase.

21 There are some other differences. On their
22 hand, to show the hog cycle, they show it and they
23 express it in terms of changes in the breeding herd.
24 I think it's more accurately expressed in changes of
25 slaughter hog production. Breeding herd size is also

1 affected by the productivity of the sows.

2 If we look over time, there's been an
3 increase in the number of weanings per sow. So you
4 can produce the same amount of pork with less number
5 of sows. So a more accurate way to express it would
6 be in pork production or slaughter hog production, as
7 opposed to the breeding herd.

8 One of the other things to look at is in the
9 second -- using an estimated return, which is really a
10 normal distinction. I think a positive way to look at
11 it is in price fluctuation, not an estimated return.

12 The estimated return, your models will
13 probably be stabler over a longer time period, and you
14 won't capture that productivity gain. So I don't
15 think that estimated return can promptly reflect a hog
16 cycle, because of the normative nature of the
17 statistic. I think showing a hog cycle, the proper
18 way to do it, you would show price change, not
19 estimated return change over a period of time.

20 MS. TURNER: Do any of the reasons for your
21 distinction from theirs, in terms of the production
22 cycle, have to do with differences between the
23 Canadian industry and the U.S. industry?

24 MR. HOLTMANN: No, they'd be universal,
25 regardless of whether it was the Canadian or the U.S.

1 industry.

2 MS. TURNER: In the post-conference brief,
3 since there is a distinction between this, can you
4 explain a little bit why you think that it would be
5 the same between both, and just elaborate a little bit
6 more on that? Go ahead, Mr. Friesen, if you have got
7 that.

8 MR. FRIESEN: On that note of the transition
9 from like the older style, where people had outside
10 farrowing and outside hog lots and this and that,
11 we've gone to this more like confinement facilities
12 and this kind of thing. That's what has changed.
13 It's because then, if you had 50 sows, you could cut
14 back to 35 sows, and maybe put two more cattle out
15 there, if the hog prices were bad.

16 This is what their argument was; that when
17 the hog prices are low, guys will cut back. They'll
18 go from 100 sows to 90 sows, or 80, or 50, or 35.
19 They'd cut back 10 or 20 percent.

20 I know hundreds of hog operations, 1,000-sow
21 units today, all over North America. They don't have
22 the ability to cut back. If they're running a
23 production system, their customers or their nurseries
24 or finishing houses, they are all made to match. They
25 can't go from 1,200 sows, down to 1,000 sows, for

1 example. They need to keep it at that level.

2 So you're not seeing the fluctuation.
3 They're either going out of business or revamping
4 things. So that explains some of the facility parts
5 of the cycle, and how that's emerged, as everything
6 gets modernized.

7 MS. TURNER: Mr. Porter?

8 MR. PORTER: We actually have a nice chart,
9 and actually, I'm sorry I didn't bring it, that shows
10 just what Mr. Friesen is talking about. Because of
11 the increase in size of hog producers and the
12 specialization that has gone on, what has happened is,
13 on the supply side, the cycle has flattened out.

14 But what's key to note is the hog cycle is
15 still important for price volatility, okay? So it's
16 on the supply side that it's kind of flattened out.
17 But, of course, it does still affect prices.

18 MS. TURNER: Okay, you'll give us your
19 chart, I take it, and explain the basis for that. Did
20 anybody else want to respond to that?

21 (No response.)

22 MS. TURNER: All right, then I have a final
23 question, and it's my standard legal question about
24 findings. Do you know of any dumpings findings or
25 anti-dumping remedies imposed on live swine in other

1 foreign countries? If so, in your post-conference
2 brief, could you provide us with a copy of the
3 official notice or decree regarding such findings?

4 MR. GOULD: No, I don't know of any. But in
5 Mexico, I just have to go back, whether that was pork
6 or hogs. But I'm not sure that that was resolved.

7 MS. TURNER: Okay, thank you, I'm finished.

8 MR. CARPENTER: Okay, Mr. Gehrke?

9 MR. GEHRKE: The first question I have is
10 probably directed by Mr. Friesen, and it has do with
11 the pricing formulas that you discussed in your
12 presentation. Can you elaborate on those maybe a
13 little bit more, or could you also be more descriptive
14 in a post-hearing brief?

15 Because you said they had changed over time,
16 and that there were more different types being offered
17 currently. So could you give us some detail on that,
18 if that's available?

19 MR. FRIESEN: Would you like examples of
20 copies of the various contracts that are available? I
21 have a whole filing cabinet full.

22 MR. GEHRKE: That would be just fine, yes.

23 MR. FRIESEN: And some of these units are
24 owned by Minnesota farmers who have come to Manitoba,
25 and they've invested in farrow houses, as they get

1 pigs like that back to their own units.

2 MS. TURNER: I just want to add one point
3 that I had made during my presentation. I'm just
4 making sure, which I'm sure Mr. Porter has recognized,
5 but any of that kind of information that's
6 confidential will be asked of the attorneys to bracket
7 it as such and will be kept as confidential, rather
8 than discussing any of that.

9 MR. FRIESEN: Okay.

10 MR. GEHRKE: Then another question, it is to
11 kind of your customers that you were discussing. I
12 believe it was Mr. Grier that mentioned there was
13 1,000 to 1,500 producers that you had identified in
14 Iowa, Nebraska, and North Dakota, I believe you said,
15 that were importing ice pigs. Could we get the data
16 on that, or how did you arrive at that, or that type
17 of information?

18 MR. GRIER: Okay.

19 MR. GEHRKE: And I guess this is for the
20 group, in general. If you look at the USDA data, the
21 feeder pigs tend to be imported from the West, the
22 larger portion of those; and as Dr. Hayes showed this
23 morning on his chart, the increase in sows that has
24 taken place in Canada.

25 Is that regional? Is it taking place in

1 Ontario, or is it in the whole country together, or
2 have those sow numbers increased in, say, Manitoba,
3 which would be supplying North Dakota and Iowa versus
4 maybe Ontario, which might be supplying Eastern U.S.?

5 MR. GOULD: I believe the largest growth in
6 the last number of years has taken place in Western
7 Canada, primarily in Manitoba; but we will get you
8 specific history on that growth.

9 MR. GEHRKE: Okay, and can you also maybe
10 elaborate on the reasons for that?

11 MR. GOULD: I believe on some them that
12 we'll go in more detail in the post-conference brief.
13 But some of the factors are availability of space,
14 feed grains that were available. Then part of it was
15 the expansion of slaughter capacity in Western Canada,
16 as well.

17 MR. FRIESEN: I wonder if I could just point
18 out on the weanling side of that equation; like, if
19 you'll note, Quebec really doesn't sell any weanlings
20 anywhere, other than within their own boundaries.

21 A lot of it is geographic, and when he says
22 there's an expansion in the west, a lot of it was
23 driven by farmers or their agents coming to Manitoba
24 and making these contracts. So that's what is a
25 little bit driving those numbers, the U.S. buyers

1 coming to buy these pigs. So that's what is fueling
2 some of that.

3 MR. GEHRKE: So presumably, there were other
4 production enterprises that were taking place. So was
5 there a decision that this was more profitable than a
6 different production enterprise and resources were
7 shifted?

8 MR. FRIESEN: Well, some if it is a
9 combination. Like in Manitoba, some farrow to finish
10 hog operations converted their facilities to strictly
11 selling baby pigs; and others, there were a few new
12 ones built, including a couple of like cooperatives
13 built by Minnesota farmers in Southern Manitoba.
14 There's a host of different enterprises.

15 MR. GEHRKE: So is there any detail
16 available on, say, what proportion of that would have
17 been new construction and new facilities, compared to
18 changing in the specialization of facilities?

19 MR. FRIESEN: We could get you that.

20 MR. FRIESEN: Okay, thank you.

21 MR. GEHRKE: I believe that covers the
22 questions I have right now, thank you.

23 MR. CARPENTER: Mr. Fry?

24 MR. FRY: No questions.

25 MR. CARPENTER: Mr. Deyman?

1 MR. DEYMAN: George Deyman, Office of
2 Investigations -- I'd like to stress again that,
3 please, in your post-conference brief, if you could
4 address whether the imports of feeder pigs and weaner
5 pigs that are essentially raised in the United States
6 are Canadian products, are imports, or are domestic
7 product?

8 That's very important, not only on a
9 theoretical level, but we'd like to see actual numbers
10 in your post-conference brief; how you believe
11 apparent consumption should be calculated with the
12 actual numbers used. I expect the Petitioners to do
13 that, too, because I want to make sure that we're as
14 fair and thorough and as accurate as we can be in
15 presenting the data.

16 MR. PORTER: Mr. Deyman, you're actually
17 going to see that in a couple of minutes in my
18 closing.

19 MR. DEYMAN: Very well, it appears that a
20 major part of your argument is that the pig/hog market
21 is an integrated market between the United States and
22 Canada; that there's limited slaughter capacity in
23 Canada; that U.S. feeders and finishers are more
24 efficient than those in Canada; and, therefore, it's
25 only natural that Canadian pigs would come to the

1 United States. That seems to be the gist of your
2 argument.

3 I'm not sure whether the Petitioners would
4 fully disagree with that. Isn't that their point?
5 You know, they're saying the increased imports -- or
6 not only increased imports, but production in imports
7 from Canada are coming here, maybe because of those
8 reasons; but does it matter?

9 MR. PORTER: Yes, it does, because you're
10 leaving out one very important point. The structural
11 changes that we described, okay, what did that do? It
12 created a vacuum. In the post conference brief, we
13 will show U.S. slaughter capacity properly calculated.

14 If you compare that to pig crop, there is a
15 gap, okay? The U.S. needs feeder pigs and Canada is
16 supplying them. So the point is, everything you say
17 is true, but you're not recognizing, or maybe you just
18 didn't mention the fact that there was this gap.

19 So the imports that are coming in are being,
20 on the demand, pulled into the country. They're not
21 being pushed from Canada, and there's a big difference
22 between the two.

23 MR. INCE: I would add to that, that the
24 limited slaughter capacity you're talking about was
25 temporary in Canada.

1 MR. DEYMAN: That's helpful; and, of course,
2 also, they claim that the price of the product from
3 Canada is lower than the price of the similar product
4 from the United States. I haven't seen actual data on
5 that. They said they're going to supply something,
6 but it sounds like it's import statistics.

7 But do you have any data on prices that
8 would indicate that the Canadian product is not being
9 sold at lower prices in the U.S.?

10 MR. PORTER: Yes, we are gathering that; and
11 what we're going to do is actually ask some of the
12 people to give, on a confidential basis, the price
13 that they receive, and then compare it to either a
14 benchmark price or the U.S. price. You'll have the
15 ability to do actually under-selling analysis.

16 I just want to add, with respect to the
17 average unit value, for some of the categories,
18 especially like the 7 to 23 and the 23 to 50, actually
19 there are sort of weight differences that I think
20 would affect its hard to use average unit values as an
21 accurate measure of Canadian price in those
22 situations.

23 MR. DEYMAN: Do you agree with what Dr.
24 Hayes said this morning, that a one percent increase
25 in supply tends to result in a price decrease of two

1 to four percent; or if you have any other scholarly
2 estimates, please let us know.

3 MR. PORTER: Lance, do you want to answer
4 that?

5 MR. MISTELBACHER: Yes, a one or two percent
6 increase in total supply would give a decrease in
7 price. But what we're saying is that the imports of
8 Canadian hogs have not had any impact on price.

9 MR. DEYMAN: And when you say total supply,
10 how does one measure that? Would that be the number
11 of pigs born, or the number of sows furrowed, or the
12 number of hogs slaughtered? Are there various ways of
13 measuring it, or is there only way that is considered
14 to be the way?

15 MR. PORTER: I think we would say hogs
16 slaughtered is the way you sort of measure available
17 supply of hogs, because at the end of the day, that's
18 what you're talking about.

19 I find it very odd, again, which I'll
20 comment on in my closing, Petitioner's use of pig crop
21 in a case where they're complaining about market hogs.
22 So obviously, they're doing that because they're
23 trying to equate an import of an iso-lean with the
24 import of a market hog, which I will describe as not
25 proper.

1 But I think when you're talking about total
2 available supply, you need to look at market hogs
3 slaughtered.

4 MR. DEYMAN: That is interesting, because
5 the petition does seem to focus on the pig crop.

6 MR. RICE: I would just add, when one looks
7 at the impact of changes in supply, that we aren't
8 dealing with an isolated U.S. pork consumption, or an
9 isolated Canadian pork consumption. We are dealing
10 with international markets now increasingly.

11 U.S. and Canada are the two largest pork
12 exporters in the world. Although Canada has increased
13 significantly, the U.S. increase in exports has been
14 much more rapid than ours in the last decade.

15 Mr. Possberg was mentioning the situation in
16 Japan and how that impacted one Canadian plant, and
17 how that plant wasn't able to simply find other
18 markets because the international situation, keying
19 exchange rates were in effect at the time. But there
20 is a much bigger demand opportunity that affects the
21 prices that will be paid for hogs, than just the North
22 American usage or U.S. usage of pork.

23 MR. DEYMAN: Well, given that though, the
24 production of the pig crop in Canada has increased
25 every year since 1997. Why would that be? Please

1 give the reasons why that did occur.

2 MR. PORTER: Well, we'll elaborate in a
3 post-conference brief. But I believe you heard here
4 sort of two things going on.

5 As Mr. Friesen said and as Mr. Howard said,
6 essentially, you know, people from Minnesota or
7 basically stateside are coming up and, if you will,
8 begging the Canadians to start furrowing operations so
9 they can have the reliable supply for the very large
10 finishing operations. So it grew as a result of
11 demand from the United States for a reliable supply of
12 iso-weans and feeder pigs.

13 MR. DEYMAN: Have all of you that received
14 questionnaires given us responses? If not, we're
15 going to make sure that you do. Please do so.

16 MR. ASNONG: Just to talk about the increase
17 of production, just for an example, in Quebec, we have
18 a moratorium so no new hog barns can be built. That's
19 since two years and would be for a couple of other
20 years, I'm sure.

21 We are facing an increase, but it's just the
22 efficiency produced. We are not increasing the
23 buildings, and they have to work with the same number
24 of sows and the same number of square feet. But they
25 increased also the efficiency, and that happens very

1 often when prices are low. We have to do an
2 additional effort to survive.

3 MR. DEYMAN: The import data in the petition
4 are official U.S. import statistics. Could you
5 provide in your post-conference brief the official
6 Canadian export statistics to the United States,
7 however they are broken out? Sometimes they differ,
8 and I don't know if they do in this product or not.

9 MR. INCE: I believe, Mr. Deyman, there is
10 an agreement between the two countries to use their
11 import data as export data. I'll confirm that.

12 MR. DEYMAN: Okay, that would be helpful.

13 MR. INCE: That's what I've been informed.

14 MR. DEYMAN: And could you also address, in
15 your post-conference brief, the general state of the
16 industry in Canada? I think Mr. Rice mentioned that
17 the producers are losing money, I believe. Didn't you
18 indicate that the producers -- were you speaking of in
19 Canada or in the United States they were losing money?

20 MR. RICE: I was mentioning the situation of
21 these packers last summer, which is what Mr. Grier
22 has. This is the hog processors. They were losing
23 money at that period of time quite significantly.

24 MR. DEYMAN: The packers.

25 MR. RICE: And that's why they reacted in

1 certain ways.

2 MR. DEYMAN: I notice in the petition, they
3 give monthly price data. In some months, there are
4 huge fluctuations. For example, between August and
5 September of 2001, the price declined 11 percent.
6 Then the next month, it declined 11.1 percent more;
7 and the next month, it declined 12.9 percent more.

8 I haven't seen the import statistics for
9 those months. But I doubt that there were be probably
10 a huge increase or huge production increase in those
11 months that would decline. Why do prices fluctuate so
12 much?

13 MR. PORTER: Mr. Deyman, I'm going to have
14 Lance review some of the stuff you talked about
15 earlier. Because he really noted the very high
16 correlation between pork prices and hog prices, and
17 then the correlation between other meat and pork.
18 Lance, go ahead.

19 MR. MISTELBACHER: Okay, the hog market can
20 be quite volatile because of the multitude of factors
21 that can affect the pork prices, as we've talked
22 about. You have incomes in other countries. You have
23 tariffs. You have demand base. You can even have,
24 for smaller adjustments, you know, weather. You can
25 have crop factors in other countries which are feed

1 costs, which may cause a liquidation. But there's
2 just a litany of factors that go in.

3 Typically, if we look back, like I said, in
4 2001, when we had FMD, it did not take much of a
5 chance for the pork prices to respond. You know, the
6 hog prices respond to the shape of the increasing pork
7 prices of going to the Japanese market. So when you
8 put that all together, you have an industry in the hog
9 market that can be quite volatile.

10 MR. GOULD: I think, as well, Lance, I
11 believe also there's a certain seasonality, within the
12 year, of pricing.

13 MR. MISTELBACHER: Yes, there's seasonality,
14 because supply changes from the summertime.
15 Typically, we have lower supply, and in the wintertime
16 we have greater supply. So there's a strong
17 seasonable pattern in the hog market, as well; and we
18 also have seasonable demand.

19 You know, it's spring here, where we are
20 still winter. Typically, as we move into that spring
21 season, we have grilling and we have different
22 demands. People eat different parts of the product of
23 the pig.

24 MR. DEYMAN: I just have a couple more
25 questions. Mr. Mistelbacher, you presented the charts

1 up on the board? I believe they're your charts, are
2 they not?

3 MR. MISTELBACHER: Yes, they're mine.

4 MR. DEYMAN: I noticed that you have in two
5 of the charts, I think it's the second and third, you
6 show hog prices. One is called the seasonally
7 adjusted NBC hog price and the other is the national
8 base hog price. They are somewhat different.

9 If you could, not now but in the post-
10 conference brief, just let us know, what are these
11 prices; that is, why are they different from each
12 other and where do they come from?

13 MR. MISTELBACHER: Okay, certainly.

14 MR. HOLTMANN: To address that last
15 question, NBC, I guess, is shorthand for National Base
16 Cost. So NBC, I guess, because we're running out of
17 space, is National Base Hog Prices. They are one in
18 the same.

19 But the difference is, one is seasonally
20 adjusted. In the second data series, we adjusted
21 prices for the seasonality that was just mentioned,
22 and that's the difference between the two.

23 MR. DEYMAN: My last question is, sometimes
24 imports of products go across borders, because the
25 price that can be obtained across the border is

1 higher; so, therefore, you try to get a higher price
2 in the other country. Is that the case here? That
3 is, is the price for, say, feeder pigs higher than the
4 price in Canada, in the United States?

5 MR. FRIESEN: I think the price is only in
6 the United States, and it's in that hog feeding
7 triangle that developed over the last 15 years. As
8 the vertically-integrated large farms are squeezing
9 out the small farmers, this is their last stance at
10 remaining in this industry.

11 So they are competing, like my whole
12 presentation, they're coming to wherever, and you just
13 as easily could be in North Dakota, if somebody would
14 give me a visa and allow me to move my facilities down
15 there. That facility could just as soon be in North
16 Dakota. But it's just that it's not quite happening,
17 and these guys need those pigs right now to stay in
18 business.

19 So the price is the same. It's \$30 a round,
20 give or take a dollar or two, plus or minus the
21 freight or border fees or duties or anything else.
22 That's the price.

23 The big volatility is being taken. These
24 fellows are saying, we got the corn, we got the
25 markets, we got the ability to hedge our hogs on the

1 Chicago Mercantile Exchange.

2 Again, like I'm going to provide to Rob and
3 Turner and the likes is, this is why this contract
4 thing developed on a percentage of the Chicago
5 Mercantile Exchange. As the former party addressed,
6 this is how you ended up, like some of these fellows,
7 men and women, can contract their finishing hogs right
8 out through the six months' futures prices.

9 So they tend to make a fixed price for that
10 iso-wean, because we don't have the ability, wherever
11 you're going to run your farrowing operation from. So
12 it's just simply free enterprise; where just supply is
13 there, the demand is there, we supply the pigs. I
14 would hate to have to re-shuffle that whole thing and
15 start finishing them all in Canada.

16 MR. PORTER: Mr Deyman, again, just to
17 repeat a point I made earlier, according to Mr. Gould,
18 and he's the largest packer in Canada, 93 percent of
19 his swine that he buys in Canada is based on U.S.
20 indices and U.S. price. You're not going to see, I
21 think, a huge difference like you do in other cases.

22 MR. HOLTSMANN: I can only speak to market
23 hogs, not the feeder pigs. That's all our firm deals
24 in. But we sell pigs every business day of the year
25 to U.S. packers, because we get paid more from them

1 than we do by Canadian packers for those hogs.

2 MR. DEYMAN: All right, your answers were
3 very helpful. Again, those of you who have not
4 submitted questionnaire responses, please do so. They
5 are very helpful to us, and we are looking forward to
6 them; thank you.

7 MS. TURNER: I have one follow-up question
8 to what Mr. Deyman actually was saying. That would be
9 to ask Mr. Rice, you had talked about Canadian exports
10 of pork. In the post-conference brief, if you could
11 actually provide us the data on the statistics on
12 Canadian exports of pork; as well as Petitioners, can
13 you, in your post-conference briefs, provide us the
14 exports for U.S. exports of pork? Can you provide us
15 data on that? Thank you.

16 MR. CARPENTER: Well, I want to thank the
17 panel very much for traveling here today to share your
18 views with us on this subject. Mr. Mistelbacher,
19 we'll make sure that your slides are attached to the
20 transcript. At this point, Mr. Porter and Mr.
21 Rosenthal, would you like a few minutes to prepare for
22 your closing statements? Okay, we'll take a break.

23 MR. PORTER: Just a very short break.

24 MR. CARPENTER: Okay.

25 MR. PORTER: Thank you, Mr. Carpenter.

1 (Whereupon, at 2:59 p.m., a brief recess was
2 taken.)

3 MR. ROSENTHAL: I'll try to be brief. It's
4 been a long day already. Some of us are hungry for
5 some pork.

6 (Laughter.)

7 MR. ROSENTHAL: I just want to clarify a
8 couple of things. First, we use pig crop as the basis
9 for a lot of our statistics, Mr. Deyman, because
10 slaughter rates include feeder and slaughter hog
11 imports. Therefore, there would be double counting.
12 So we use the slaughter figures, and we'll explain
13 that further in post-hearing brief.

14 Also, some of the presentations by the
15 Respondents were obviously using different bases than
16 the bases used in our numbers, and we'll try to
17 explain ours are the right approaches to use, or why
18 you get different results when you use the
19 Respondents'.

20 A couple of things I want to emphasize
21 though, and I thought Mr. Deyman had a very good
22 summary of what the arguments were by the Respondents.
23 They admitted that there is insufficient or
24 inefficient capacity for slaughter in Canada, and they
25 admitted that that was one of several reasons why the

1 Canadian hogs were coming down in increasing numbers.

2 Mr. Porter attempted to explain the scenario
3 by saying, yes, but the other reason, the gap that you
4 left out, or the little factor that you left out that
5 was so important was that there was an alleged gap in
6 feeder hog capacity in the U.S. That is totally
7 incorrect.

8 Indeed, there's plenty of, and has been
9 plenty of, feeder hog capacity in the United States.
10 What's happened though is that as the U.S. producers,
11 reacting to market forces, have seen the price
12 declines, they've done what they normally do during
13 the hog cycle. That reduced their capacity, their
14 crop, their herd of sows; and they've reduced their
15 capacity. Whereas, the Canadians have continued to
16 increase their capacity.

17 You heard admissions by the other side that,
18 I think, one party said that the Canadians has
19 admitted their growing farrow to weanling operations;
20 and they have essentially doubled the size so they
21 could ship to the United States.

22 Now their explanation for this, their benign
23 explanation is, we're trying to help out the U.S. I
24 think their basic argument is, well, we have people
25 coming up to Canada to buy our pigs. Why is that

1 harmful?

2 Well, no one is denying that there are
3 willing sellers and willing buyers in this
4 transaction. Every import has a buyer, presumably;
5 and presumably, imports that are being brought in from
6 Walmart, from China, are being consumed happily by
7 people who buy at Walmart.

8 That doesn't mean that the producers of the
9 products that are being made in China, that the
10 products are not displacing domestic U.S. production.
11 That's exactly what's happening here. U.S. producers
12 are lowering the amount of production here, and the
13 imports from Canada are increasing their production
14 and increasing their shipments to the U.S.

15 There are a couple of other things that I
16 think are very important about this. You've heard
17 about, there's kind of like a single pricing system
18 and a kind of a North American approach to what prices
19 are; and we don't deny that, by and large.

20 Even though the Canadian market is somewhat
21 more insulated than the U.S., the U.S. market is very
22 open. Canadians don't have as many barriers as they
23 used to have, but it is harder to ship north.

24 That said, what really is going on here is
25 that, in many instances, it has become more cheap to

1 buy the Canadian product, the feeder pigs, the
2 weanlings, the slaughter hogs, than it is to produce
3 in the United States. There's no other way about it.

4 Now you heard, not much, but an attempt at
5 an explanation about the price impacts of the
6 increased Canadian volume. I think that in response
7 to Mr. Gehrke's question to the Respondents, they did
8 not deny the price elasticity estimates used by Dr.
9 Hayes.

10 What they said though, if I may characterize
11 it, was that increased Canadian supply really doesn't
12 mean anything. It really isn't increased supply. Pay
13 no attention to that a couple million pounds of
14 increased Canadian imports, because that doesn't count
15 when you measure supply and demand.

16 That, in so many words, was their argument.
17 Maybe they'll have more words in their post hearing
18 brief. I hope they do; because up until now, they
19 still have not figured out a way to repeal the laws of
20 supply and demand.

21 We can argue -- and honestly, this is where
22 I think the argument should be -- and that is, is the
23 increased Canadian supply, a couple million pounds
24 over the last few years, and the price impacts of four
25 to eight percent, enough to make a difference to cause

1 material injury?

2 That's one legitimate argument that we
3 should be having. That's where the issues should be
4 joined; not, pay no attention to the supply increase
5 from Canada, because it really isn't a supply. It is
6 merely an increase. That is, with all due respect, a
7 not particularly convincing argument, or it shouldn't
8 be.

9 There are a number of smaller statements
10 that I won't try to rebut at this point, but will wait
11 for the post-hearing brief. I will say that I happen
12 to agree with Mr. Porter that the proper approach to
13 this case is a semi-finished analysis, at least with
14 respect to like product.

15 I think we'll end up with a single like
16 product under that analysis. Then we'll get to the
17 other real question, which is what's the impact on the
18 domestic industry by having all of these hogs come
19 across the border, at these various places in the
20 chain of production?

21 Ms. Turner, I was very glad you pointed out
22 that the attempts by -- and I know you wouldn't
23 characterize it -- but the attempts by Mr. Porter to
24 make believe there weren't such things as slaughter
25 hog imports really doesn't have any support in the

1 data.

2 By the way, when we are talking about the
3 long-term data and the inefficient or insufficient
4 Canadian slaughter hog capacity, that is not a new
5 phenomenon. That has been going on for a long, long
6 time. It's been a trend that has been quite well
7 understood by the Canadian hog producers.

8 Despite that, despite the lack of capacity
9 in Canada, they continue to increase their herds and
10 continue to increase their capacity. There is only
11 one place for that to go, and that is to the U.S.

12 There is one other thing I think we ought to
13 keep in mind here, especially in light of the
14 testimony today about the knowledge of pricing across
15 borders. That is, you can't simply look at the
16 physical imports of hogs from Canada on a month to
17 month basis; maybe even not on a year to year basis.

18 At some point, you have to recognize that
19 the total Canadian supply and total U.S. supply are
20 figures that are understood and looked at by people on
21 both sides of the border.

22 People understand when Canadian supply
23 especially is increasing, and when there is no place
24 in the Canadian market for that supply to go, that at
25 some point, that supply will turn into an actual

1 import for consumption in the United States. So you
2 need to look not just at actual imports, but at the
3 total supply, as well.

4 With that, I want to thank you for your
5 time, your attention, your good questions, and
6 conclude by saying that I think you'll find that when
7 all the evidence is in, there should be an affirmative
8 determination in this case; thank you.

9 MR. CARPENTER: Thank you, Mr. Rosenthal.
10 Mr. Porter?

11 MR. PORTER: Thank you, Mr. Carpenter; I
12 want to make a few comments in closing and I want to
13 offer sort of an apology. Some of my comments are
14 going to be direct answers to your questions that I do
15 want to answer at this time, because I wanted to save
16 something for the closing.

17 Again, I want to start off by noting
18 probably what is, at least from my many years doing
19 this, one of the more interesting facts of this case.

20 Well, first we start off with basics. About
21 five million to seven million head of swine that came
22 across was in the feeder pig and iso-wean category.
23 What is very interesting is, 100 percent of that was
24 purchased by the domestic industry here today. You
25 don't often see that. The domestic industry -- that

1 is the U.S. producers of hogs -- are importing the
2 subject merchandise. They've got to step back and
3 remember that.

4 Now let's highlight some of the facts that
5 you heard today, and I want to try to assess those
6 with respect to the Commission's statutory analysis.
7 Volume, price, impact -- let's first take volume.

8 As I said before, a pig may be a pig may be
9 a pig, but a pig is not a hog. A 10 pound pig is not
10 the same as a 260 pound hog. As Mr. Deyman pointed
11 out and Ms. Turner pointed out, the pig comes across
12 and two-thirds to 75 percent of the value is U.S.
13 value added. Americans feed it. Americans sell it.
14 Americans set the price.

15 As Mr. Deyman very correctly asked, what do
16 we do with that fact? Because what Petitioners are
17 complaining about are market hog prices. Yet, we have
18 this hog being slaughtered. Seventy-five percent of
19 the value was in the United States. I submit it is
20 improper to say that that head is 100 percent an
21 import from Canada.

22 Now fortunately, there is a correct way to
23 look at volume and market share, and that's based on
24 kilograms. USDA keeps very good records on total
25 kilograms slaughtered. I'm sorry, actually, it's

1 probably total pounds slaughtered. What we can do is,
2 you start with total pounds slaughtered. You then
3 subtract total pounds, or kilograms or whatever it's
4 converted, coming in from Canada. What you're left
5 with then, by definition, is U.S. produced pounds that
6 are slaughtered.

7 You then can do a proper market share
8 analysis. You can calculate a U.S. producers' share
9 and an import share. That way, you don't run into the
10 problems you do with trying to do it on a head basis.

11 If you do that, you will see that the market
12 share was 3.3 percent in 2001 and steady little bumps
13 in here, and ended at 3.9 percent in 2003. The
14 difference, which is the most important thing, the
15 delta of 0.6 percent. Mr. Carpenter, I submit to you
16 that a change in market share of 0.6 percent is not
17 evidence of significant volume effects.

18 Let's go on to price. Again, we have here
19 two things coming across. We have the iso-weans, the
20 feeder pigs, and we have the market hogs. The
21 question is, the price of the iso-wean feeder pig, at
22 the time it's coming across the border, how does that
23 price that is paid for that import iso-wean or feeder
24 pig, affect the market hog slaughter price, which is
25 what the Petitioners are complaining about, the

1 decline in market hog slaughter price?

2 So the question is, is there any evidence
3 that the price that the Canadians are getting for the
4 iso-weans and feeder pigs affecting the market hog
5 slaughter price? I submit the evidence is, no.

6 We heard today that 80 to 90 percent of the
7 iso-weans that are coming in are pursuant to long-term
8 contracts, most of which were set before the period of
9 investigation. Hence, there is no real ability for
10 those to affect the market hog price as an iso-wean,
11 because that's what you have to do.

12 Mr. Rosenthal says, oh, but it grows up to
13 be a hog. It grows up to be an American hog, for
14 which the price was set by an American. What you need
15 to do under the law is ask, is that import price
16 affecting the market hog slaughter price? The answer
17 is no, because they're under long-term contract.

18 With respect to the slaughter hogs, there
19 you have the ability to do the more traditional under-
20 selling analysis, because they are coming, they are
21 equal products that are being purchased at the same
22 time.

23 What did we hear today? We heard that, in
24 fact, there is sort of a complicated way that the U.S.
25 market price is set; and that basically, there's what

1 is called a negotiated cash price, which accounts for
2 14 percent of the purchases of market hogs. They
3 then, because of formula pricing, influence a price of
4 about 65 or 70 percent of the other market hogs.

5 However, at least from what we heard today,
6 no Canadian market hogs are sold on a negotiated price
7 basis. Why; because they're too cautious, honestly.
8 They want predictability. So they're all on a formula
9 basis. So the price that the Canadians are getting
10 for their market hogs is not including the price that
11 is affecting the U.S. market.

12 The other thing that we will present is that
13 when you do a proper under-selling analysis, you are
14 not going to see the significant under-selling that is
15 needed to justify a conclusion of price suppression --
16 volume, price, now impact.

17 This is a difficult industry. There's no
18 question. There are many U.S. producers, and we have
19 to try and look at what's the best available evidence
20 of profitability and financial performance.

21 Ms. Turner asked the question, and I'm going
22 to answer her now. What Petitioners put in their
23 petition for a surrogate of financial performance to
24 the industry is not appropriate for your analysis.
25 Look at that. From the USDA, it is a theoretical

1 model, based on assumptions that were done in 1998.
2 They are assumptions based on a survey of cost
3 deficiencies.

4 I submit to you, since then, there have been
5 dramatic improvements in efficiencies in this
6 industry, as we heard today. It may have been
7 appropriate to use in 1999, because you're only one
8 year away from the survey. It's not appropriate to
9 use that when you're six years away from the survey.

10 The other evidence of profitability and
11 financial performance that Petitioners presented today
12 are all these estimated net returns and, again, a lot
13 of fancy models. I submit to you, you can use actual
14 data of profitability. We have that and we will give
15 it to you.

16 That's what you should use, and you'll see
17 that, in fact, although 2002 was a bad year, the U.S.
18 hog producers actually came back in 2003 -- volume,
19 price, impact. I thank your time and I thank you for
20 your consideration.

21 MR. CARPENTER: Thank you, Mr. Porter.

22 In closing, let me just mention a couple
23 dates. It's our understanding that the Department of
24 Commerce has postponed initiation of the
25 investigations by up to 20 days. Because of that, and

1 also because we've asked for a great deal of
2 information in the post-conference briefs today, we
3 will be extending the deadline for the submission of
4 corrections to the transcript and for briefs in the
5 investigation from Wednesday, March 31st, to Monday,
6 April 5th. If briefs contain business proprietary
7 information, a non-proprietary version is due on April
8 6th.

9 We will notify parties of the vote date and
10 the remainder of the schedule for the investigation as
11 soon as Commerce notifies us of its initiation. Thank
12 you for coming; this conference is adjourned.

13 (Whereupon, at 3:22 p.m., the conference was
14 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Live Swine from Canada
INVESTIGATION NO.: 701-TA-438
HEARING DATE: March 26, 2004
LOCATION: Washington, D.C.
NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: March 26, 2004

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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