IN THE MATTER OF:

Fresh, Chilled, or Frozen
Pork from Canada

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ARTICLE 1904.13
EXTRAORDINARY CHALLENGE COMMITTEE
UNITED STATES-CANADA FREE-TRADE AGREEMENT

IN THE MATTER OF:	)	
	)	**ECC-91-1904-01USA**
FRESH, CHILLED, OR FROZEN PORK FROM CANADA	)	
	)	
	)	
	)	

Before: Arlin M. Adams
Willard Z. Estey
Gregory T. Evans

MEMORANDUM OPINION AND ORDER REGARDING BINATIONAL PANEL REMAND DECISION II

June 14, 1991

INTRODUCTION

This memorandum opinion and order presents the results of the extraordinary challenge proceeding conducted pursuant to Article 1904.13 and Annex 1904.13 of the United States-Canada Free-Trade Agreement. The proceeding followed a Request For An Extraordinary Challenge Committee filed by the Office of the United States Trade Representative ("USTR"), on March 29, 1991, on behalf of the United States, contesting the January 22, 1991 Memorandum Opinion and Order issued by the Binational Panel ("Panel Remand Decision II") after review of the affirmative

determination of threat of material injury made on remand by the U.S. International Trade Commission, on October 23, 1990.

Provisions for an Extraordinary Challenge Committee are set forth under Article 1904.13 and Annex 1904.13 of Chapter 19 of the United States-Canada Free-Trade Agreement (the "FTA"), implemented in the United States by the United States-Canada Free-Trade Agreement Implementation Act, Pub. L. No. 100-449, 102 Stat. 1851 (1988). In Canada, the FTA was implemented by the Canada-United States Free-Trade Agreement Implementation Act, S.C. 1988, Chap. 65. Rules of Procedure for Extraordinary Challenge Committees are set forth in the Extraordinary Challenge Committee Rules, 53 Fed. Reg. 53,222 (Dec. 30, 1988), Canada Gazette, Part 1, January 14, 1989, p.103.

In this opinion, we set out the procedural history of the investigation entitled Fresh, Chilled, or Frozen Pork from Canada, examine the role of the Extraordinary Challenge Committee mechanism, and discuss the allegations of error addressed by the present challenge.

After full consideration of the arguments presented by the parties in their briefs and at the oral argument held in Washington, D.C., on May 15, 1991, we conclude that the

allegations do not meet the threshold for an extraordinary challenge that is set forth in Article 1904.13. Accordingly, we dismiss the request for an extraordinary challenge and affirm the Order of the Binational Panel dated January 22, 1991.

I. PROCEDURAL HISTORY

On September 13, 1989, the U.S. International Trade Commission ("ITC" or "Commission") made a determination in Investigation No. 701-TA-298, by a three to two vote, that an industry in the United States was threatened with material injury by reason of the importation of subsidized fresh, chilled, or frozen pork from Canada. Fresh, Chilled, or Frozen Pork from Canada, USITC Pub. 2218, Inv. No. 701-TA-298 (Sept. 1989) (Final). That determination was subsequently appealed by certain Canadian parties and an Article 1904 binational panel comprised of three Canadian and two United States members was established pursuant to the FTA to review the ITC's final determination. Secretariat File No. USA-89-1904-11. The Panel members were: S.V. Potter (Chairman); K.F. Patterson; T.M. Schaumberg; E.D.D. Tavender, Q.C.; and J. Whalley.

The ITC, on March 26, 1990, filed a notice of Motion Requesting Voluntary Remand in order to reexamine the data

contained in Table 17 of the Commission's final report. The Panel denied the motion. Order Denying Motion for Voluntary Remand (Apr. 9, 1990).

On August 24, 1990, the Panel remanded the final determination to the Commission for reconsideration, primarily because several of the ITC's findings had been based, in part, on the "faulty use of statistics." Memorandum Opinion and Order at 16 (Aug. 24, 1990) ("Panel Remand Decision I"). The Commission ascertained that to comply with the panel's remand instructions, it was necessary to reopen the Record to seek additional information. 55 Fed. Reg. 39,073 (Sept. 24, 1990) (issued on September 19, 1990).[1] The Canadian Meat Council, its members, and Canada Packers, Inc., and Moose Jaw Packers (1974) Ltd. filed a motion challenging the Commission's decision to reopen the Record. Motion for Clarification of the Panel Remand Order (Sept. 19, 1990). The Panel denied the motion and permitted the Commission to reopen the Record without expressing its opinion as

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[1] In the Federal Register notice, the Commission "reopen[ed] the record to gather information on three narrow aspects of its investigation," covering only the period of the Commission's investigation, concerning "(1) Canadian production, imports, exports, and apparent consumption; (2) the production capacity and utilization of the Fletcher's Fine Foods pork packing plant in Red Deer, Alberta and of the Canadian pork packing industry as a whole; and (3) Japanese imports of pork from Taiwan and Canada." 55 Fed. Reg. 39,073.

to the propriety of such action by the Commission. Order Denying Motion for Clarification of Panel Remand Order (Sept. 27, 1990).

On October 23, 1990, the ITC issued its Views on Remand determining, by a two to one vote,[2] that the domestic pork industry was threatened with material injury by reason of imports of fresh, chilled, or frozen pork from Canada. Fresh, Chilled, or Frozen Pork from Canada, USITC Pub. 2330, Inv. No. 701-TA-298 (Oct. 1990) (Final-Remand) ("Views on Remand"). The Panel granted a motion by the Canadian parties that the Panel review the Commission's Views on Remand. Order (Nov. 5, 1990).

The Panel again remanded the ITC determination. Memorandum Opinion and Order (Jan. 22, 1991) ("Panel Remand Decision II"). In its second remand decision, the Panel determined that the Commission erred in considering information outside the scope of the September 24, 1990, Federal Register notice, and that the Commission's findings as to product-shifting were not supported by substantial evidence. Panel Remand Decision II at 19 and 37-38. The Panel instructed the ITC to conduct the second remand "without any further reopening of its Record". Id. at 38. In addition, the Panel instructed the ITC to limit its review of the

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[2] Two Commissioners resigned after the initial final determination on September 13, 1989 and had not been replaced.

Record, including the information gathered on remand, to the "three narrow aspects" specifically mentioned in the September 24, 1990, Federal Register notice, "covering only the period of the Commission's original period of investigation, and dealing with no legal or economic argument other than those raised in the Panel's Remand Order." Id.

On February 12, 1991, the Commission issued its Views on Second Remand, concluding unanimously[3] that an industry in the United States was not threatened with material injury by reason of imports of fresh, chilled, or frozen pork from Canada. Fresh, Chilled, or Frozen Pork from Canada, USITC Pub. 2362, Inv. No. 701-TA-298 (Feb. 1991) (Final-Second Remand) ("Views on Second Remand").

Pursuant to Article 1904.13 and Annex 1904.13 of the United States-Canada Free-Trade Agreement, the United States, on March 29, 1991, requested formation of an Extraordinary Challenge Committee ("Committee" or "ECC") to review the January 22, 1991, Panel Remand Decision II. Request for an Extraordinary Challenge

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[3] Acting Chairman Brunsdale reaffirmed her prior negative determination. Commissioners Rohr and Newquist reversed their previous affirmative determination of threat of injury; however, both recorded their disagreement with the conclusions set out in Panel Remand Decision II, stating that the second panel decision "violate[d] fundamental principles" of the FTA and "contain[ed] egregious errors under U.S. law." Views on Second Remand at 5.

Committee (Mar. 29, 1991) ("Request for ECC"); Secretariat File No. ECC-91-1904-01USA. Pursuant to the United States' request, an Extraordinary Challenge Committee was created. The Committee members were: Arlin M. Adams; Willard Z. Estey; and Gregory T. Evans.

After extensive briefing, the Extraordinary Challenge Committee, on May 15, 1991, heard oral arguments on the challenge to Panel Remand Decision II.

The parties that filed briefs and appeared before the Committee in support of the extraordinary challenge included: the U.S. Trade Representative ("USTR"), on behalf of the Government of the United States; the U.S. International Trade Commission ("ITC" or "Commission"); and the National Pork Producers Council, et al. ("NPPC"). [Hereinafter collectively referred to as "Petitioners"]. The parties that filed briefs and appeared before the Committee in opposition to the extraordinary challenge included: the Government of Canada; the Government of the Province of Alberta; the Canadian Meat Council, et al. ("CMC") and Canada Packers, Inc.; and Moose Jaw Packers (1974) Ltd. ("MJP"). [Hereinafter collectively referred to as "Respondents"].

II. ROLE OF THE EXTRAORDINARY CHALLENGE COMMITTEE

After extensive negotiations the United States and Canada entered into the United States-Canada Free-Trade Agreement effective January 1, 1989, creating a comprehensive bilateral trade agreement. A central feature of this historic agreement is the Binational Panel mechanism. Under the FTA, binational panels review final determinations relating to countervailing duty and antidumping investigations and, in effect, substitute for judicial review. In addition, the FTA provides an Extraordinary Challenge Committee mechanism to review binational panel decisions in exceptional circumstances.

As its name suggests, the "extraordinary" challenge procedure is not intended to function as a routine appeal. Rather the decision of a binational panel may be challenged and reviewed only in "extraordinary" circumstances. While the legislative history of the extraordinary challenge committee mechanism is lacking in specifics, it is clear that the extraordinary challenge procedure is intended solely as "a safeguard against an impropriety or gross panel error that could threaten the integrity of the [binational panel review] process ...." Summary of the U.S.-Canada Free Trade Agreement at 37, The White House, Office of the Press Secretary (Feb. 1988) ("Summary of the FTA"). Notably, the legislative history states that an extraordinary challenge committee is intended as a review

mechanism for "aberrant panel decisions" and that "the availability of resort to extraordinary challenge committees should act to cure aberrant behavior by panelists." H.R. Rep. No. 816, 100th Cong., 2d Sess., pt. 4, at 5 and 12 (1988) (emphasis added).

The role of the Extraordinary Challenge Committee in reviewing a final decision by a panel is restricted by the terms of the FTA. Specifically, an extraordinary challenge is available in narrowly-defined circumstances under Article 1904.13, which provides:

> Where, within a reasonable time after the panel decision is issued, a Party alleges that:
>
> a) i) a member of the panel was guilty of gross misconduct, bias, or a serious conflict of interest, or otherwise materially violated the rules of conduct,
>
> ii) the panel seriously departed from a fundamental rule of procedure, or
>
> iii) the panel manifestly exceeded its powers, authority or jurisdiction set forth in this Article, and
>
> b) any of the actions set out in subparagraph (a) has materially affected the panel's decision and threatens the integrity of the binational panel review process,
>
> that Party may avail itself of the extraordinary challenge procedure set out in Annex 1904.13.

Thus, in order to sustain an extraordinary challenge the

Committee first must find that a panel or panel member is guilty of one of the actions set forth in paragraph 'a'. Second, the Committee must find that such action "materially affected the panel's decision". And third, the Committee must determine that the action "threatens the integrity of the binational panel review process".

This three-prong requirement provides explicit, narrow grounds for extraordinary challenges and makes clear that an extraordinary challenge "is not intended to function as a routine appeal." Statement of Administrative Action, United States-Canada Free-Trade Agreement at 116, reprinted in H.R. Doc. No. 216, 100th Cong., 2d Sess., 163, 278 (1988). Indeed, the Committee's only function is to ascertain whether each of the three requirements set forth in Article 1904.13 has been established.[4]

Another indication that a panel decision may be appealed to an extraordinary challenge committee only in certain exceptional

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[4] Several parties discussed the similar standard of review applicable to extraordinary challenge committees under the FTA and ad hoc committees under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID"). While ICSID ad hoc committees appear to have standards quite similar to those set out under FTA Article 1904.13(a), extraordinary challenge committees have two additional standards under FTA Article 1904.13(b) relating to "materiality" and "threat to the integrity of the binational panel review process," effectively making comparisons between the FTA and ICSID of somewhat limited persuasive value.

circumstances is the use of strong, descriptive terms in the text of the extraordinary challenge provisions. Modifiers such as "gross", "serious", "fundamental", "materially", "manifestly", and "threatens", which appear in the statute, highlight the committee's formidable standard of review.

While the text of the FTA provides for extraordinary challenges only in very limited circumstances, the procedural rules governing the committee also narrowly circumscribe review. Under Annex 1904.13:

> 1. The Parties shall establish an extraordinary challenge committee, comprised of three members, within fifteen days of a request pursuant to paragraph 13 of Article 1904. The members shall be selected from a ten-person roster comprised of judges or former judges of a federal court of the United States of America or a court of superior jurisdiction of Canada. Each Party shall name five persons to this roster. Each Party shall select one member from this roster and the third shall be selected from the roster by the two members chosen by the Parties or, if necessary, by lot from the roster.
>
> 2. The Parties shall establish by January 1, 1989 rules of procedure for committees. The rules shall provide for a decision of a committee typically within 30 days of its establishment.
>
> 3. Committee decisions shall be binding on the Parties with respect to the particular matter between the Parties that was before the panel. Upon finding that one of the grounds set out in paragraph 13 of Article 1904 has been established, the committee shall vacate the original panel decision or remand it to the original panel for action not inconsistent with the committee's decision; if the grounds are not established, it shall affirm the original panel decision. If the original decision is vacated, a new

panel shall be established pursuant to Annex 1901.2.

As the procedural rules state, an extraordinary challenge committee is composed of three judges or former judges of a federal court of the United States or of a court of superior jurisdiction of Canada. The challenge committee's function is to determine whether a panel or panel member violated the three-prong standard of the extraordinary challenge procedure. In contrast, a binational panel is composed of five individuals with expertise in international trade law. The panel members' function is to review the record evidence and the trade law issues that have been raised before the competent investigating authority. The committee and the panel have separate roles and different expertise; it is not the function of a committee to conduct a traditional appellate review regarding the merits of a panel decision.

Another important procedural distinction and indicator of differences in review functions between the panel review mechanism and the extraordinary challenge mechanism is the disparate amount of time allotted to the two tribunals for review. Under the procedural rules, an extraordinary challenge committee typically is given only 30 days to issue a written decision, whereas a binational panel generally is given 315 days

to issue a decision. It is the task of the panel to analyze the record during its 315 day review, while it is the task of the extraordinary challenge committee to determine whether the panel violated the three-prong extraordinary challenge standard during its 30 day review. Based on the time allotted to an extraordinary challenge committee to evaluate a challenged panel decision, it is clear that a committee is not intended to conduct an in-depth review regarding the merits of the investigation within such a short time frame.

A further significant distinction between committee and panel review, accentuating the high standard for invoking an extraordinary challenge, is the fact that only the government of the United States or the government of Canada may request an extraordinary challenge, whereas a panel review may be initiated by any interested party to the investigation. ECC Rule 34.

In short, the role of an Extraordinary Challenge Committee, as the name implies and as the FTA provisions and procedural rules suggest, is to review Binational Panel decisions in only exceptional circumstances. Only upon evidence of egregious error that achieves the threshold requirements set forth in FTA Article 1904.13(a) and (b), may an extraordinary challenge be maintained.

III. ALLEGATIONS OF ERROR SUBMITTED BY THE PETITIONERS

In support of their position that Article 1904.13 provides a basis for jurisdiction for this extraordinary challenge, Petitioners alleged that the panel, in its second remand decision, "seriously departed from a fundamental rule of procedure or manifestly exceeded its powers, authority or jurisdiction" in five instances. Request for ECC at 3. Additionally, Petitioners alleged that "in each instance, the panel's actions materially affected the panel decision and threaten the integrity of the binational panel review process." Id. The Committee concludes that none of the allegations provide a basis for jurisdiction for an extraordinary challenge under FTA Article 1904.13(a), and that none of the alleged errors materially affected the panel decision or threaten the integrity of the panel review process under FTA Article 1904.13(b). In the following paragraphs the Committee discusses the five allegations of error:

1. The claim that the Panel created a due process principle independent of United States law.

Petitioners allege that the Panel in its second remand decision created a due process principle independent of United States law by striking certain evidence from the Record rather than determining what United States law required with respect to such evidence.[5] Petitioners allege that the Panel "explicitly and implicitly turn[ed] its back on all issues of U.S. law ...", ITC Brief at 58, and that the Panel "construed the FTA as a 'special' source of law independent from operation of U.S. law." NPPC Brief at 37. According to Petitioners, the Panel thereby seriously departed from a fundamental rule of procedure and manifestly exceeded its powers, authority or jurisdiction.

The Committee disagrees with Petitioners' characterizations of the Panel's actions as a total disregard for United States law. In contrast, a fair reading of the Panel's second remand decision discloses that the Panel recognized and discussed

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[5] In its second remand decision, the Panel instructed the ITC to limit the Record, including the information gathered on remand, to the "three narrow aspects" specifically mentioned in the September 24, 1990, Federal Register notice, "covering only the period of the Commission's original period of investigation, and dealing with no legal or economic argument other than those raised in the Panel's Remand Order." Panel Remand Decision II at 38.

various cases under United States law in conjunction with the strictures placed upon it under the FTA "to secure 'the just, speedy, and inexpensive review of final determinations' within a set period." Panel Remand Decision II at 14. In reaching its decision that the ITC failed to follow its own September 24, 1990, Federal Register notice on remand, the Panel states:

> [The Panel] has applied the fundamental principles of fair play as recognized by the Supreme Court in Pottsville.[6] Even if the Record is to be reopened and new information developed and even if new issues are to be considered, the principles of fair play would require that the participants at least be afforded notice and an opportunity for a hearing on those matters.

Panel Remand Decision II at 20.

The Committee is unable to say that the Panel's decision evinces a clear disregard for United States law, and as such ascertains that Petitioners' first allegation of error does not meet the standards set forth in FTA Article 1904.13(a).

The Committee also concludes that the Panel's discussion of the general legal principle of "due process" was raised mainly in response to arguments that the Canadian parties were not United States persons and, as such, not entitled to protection under the

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[6] Federal Communications Comm'n v. Pottsville Broadcasting Co., 309 U.S. 134 (1940).

Fifth Amendment. The Panel determined that it need not decide whether this argument had validity "in view of the express incorporation under Article 1911 of the FTA of the general legal principle of 'due process'." Panel Remand Decision II at 20. Again, the Committee is unable to say that the Panel's decision evidences a clear disregard for United States law, and as such finds that Petitioners' first allegation of error fails to meet the standards set forth in FTA Article 1904.13(a).

2. The claim that the Panel improperly considered non-Record evidence.

Petitioners allege that, in its second remand decision, the Panel improperly considered evidence outside the administrative record to arrive at its own conclusion that the ITC's determination of threat of injury was not supported by substantial evidence. Petitioners claim that the Panel "reversed Commissioner Newquist's determination by relying on extra-record evidence ...."[7] NPPC Brief at 60.

The Committee disagrees with Petitioners that the Panel substituted its judgment for that of the Commission by

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[7] 55 Fed. Reg. 20,812 (May 21, 1990) (Dept. Commerce preliminary finding).

considering this extra-record notice. If the extra-record notice had been the only evidence upon which the Panel relied to make its decision, it is arguable that the Committee could have found the type of egregious error actionable under an extraordinary challenge. It is clear, however, that the Panel did not rely exclusively on the extra-record evidence in ascertaining that there was no substantial evidence to support Commissioner Newquist's finding of product shifting; rather the Panel added its one paragraph discussion of the notice at the end of its discussion of the Commissioner's findings. While the Committee would caution the Panel to consider in most instances only the evidence contained in the Record, the Committee does not need to consider whether the use here of the Federal Register notice by the Panel meets the standards under subparagraphs 1904.13(a)(ii) or (iii), because in any event the Committee concludes that such action would not meet the requirements under paragraph 1904.13(b).

3. The claim that the Panel improperly applied a procedural rule of finality.

Petitioners contend that the Panel created a rule of finality thereby "usurp[ing] administrative authority that no U.S. court reviewing agency action possesses." ITC Brief at 73.

Petitioners claim that the Panel in fact put a limit on the number of times a Panel may remand, and created a requirement that the Panel "resolve all outstanding issues and foreclose any new issues in its second review." NPPC Brief at 24.

The Committee concludes that under the circumstances of this case the Panel was within its authority to suggest that a "final decision" was justified. As the Panel noted, "the ITC's Record has been combed not once but twice in the search for substantial evidence of threat of material injury." Panel Remand Decision II at 7. Taking into consideration the Panel's mandate to resolve matters expeditiously, the Committee cannot find that the Panel clearly exceeded its authority under these circumstances in remanding the ITC's determination for action not inconsistent with the Panel's first and second remand decisions.

The Committee notes that there are no restrictions on the Panel's power to remand with or without instructions to the competent investigating authority. Here the Panel, on finding that the decision of the ITC was not supported by "substantial evidence" as required under United States law, directed a review by the ITC of the record as originally constituted. There is no limit in any of the applicable laws proscribing such a remand. Furthermore, the framework of the FTA, as noted above, requires

that expedition and efficiency be incorporated into the panel review process.

4. The claim that the Panel effectively applied a "de novo standard of evidentiary review" instead of the correct standard of "substantial evidence on the record".

Petitioners assert that the panel seriously departed from a fundamental rule of procedure or manifestly exceeded its powers, authority or jurisdiction by effectively applying a de novo standard of evidentiary review instead of the correct standard, "substantial evidence on the record."

The Committee disagrees with Petitioners' characterization of the Panel's discussion on product shifting as de novo review. In its first decision, the Panel discussed at length the correct standard of review under the FTA. See Panel Decision I at 5-13. This standard of review -- whether the ITC's Remand Determination is "unsupported by substantial evidence on the record, or otherwise not in accordance with law" -- is incorporated into the Panel's second decision. Panel Decision II at 8. A review of decisions by the Panel reveals a considerable effort by the Panel to determine the presence or absence of "substantial evidence" in support of the ITC's decision.

As discussed above, the Binational Panel is composed of five individuals with expertise in international trade law and presumably familiarity with "threat of injury" determinations. The Committee will not substitute its judgment for that of the Panel's judgment on whether the determination by the ITC is supported by substantial evidence when it is clear, as in this case, that the Panel applied the correct standard of review.

With respect to subparagraph 1904.13(a)(iii), the role of this Committee is to ensure that the Panel has articulated the correct test for review and that it has conducted an analysis of pertinent facts taken from the ITC record in order to apply the relevant standard of review. The primary role of this Committee under subparagraph 1904.13(a)(iii) involves the determination of a failure on the part of the Panel to conform to this standard. That failure, in the words of subparagraph 1904.13(a)(iii), must be "manifest". The Committee is not directed by Article 1904.13 to review the record of the ITC to determine the adequacy of the action and decision taken by the Panel. We are neither authorized nor directed to substitute our judgment on the issue of "substantial evidence" for the judgment of the Panel. We are required only to satisfy that the appropriate United States law has been conscientiously applied.

The issue as to jurisdiction of the Committee in the event an error of law is committed by the Panel in the interpretation or application of the admittedly applicable United States law was not raised before the Committee. Therefore, this issue need not be addressed here. It should be added that no such error of law that would constitute an excess of jurisdiction is "manifest" in the reasons for decisions taken by the Panel.

5. The claim that the Panel reweighed evidence in a manner contrary to United States law by requiring that the ITC find "price underselling" in order to find a likelihood of negative impact on United States pork prices.

Petitioners allege that the Panel engaged in an unlawful reweighing of the evidence underlying the Commissioners' findings on product shifting and price suppression. Specifically, Petitioners argue that the Panel "impermissibly reweighed the record evidence", NPPC Brief at 74-75, and "resolved the issue [of threat of injury] contrary to established U.S. law, giving price underselling weight that it is not accorded under U.S. law." ITC Brief at 114.

The Committee agrees with Respondents that Petitioners' allegation "that the Panel exceeded its powers by requiring evidence of underselling to support a finding of price

suppression overstates the Panel's assertion that it was 'troubled' by the conclusion of Commissioner Rohr ... that imports of Canadian pork could contribute to material injury simply by their addition to the total supply." Government of Canada Brief at 54. The Committee determines that the Panel did not give separate weight to "price underselling" as a threat factor in contravention of Court of International Trade precedent; rather the Panel interpreted the lack of evidence of underselling as "an absence of evidence of causation" of material injury based on likelihood of negative impact on United States pork prices. Panel Remand Decision II at 36.

IV. CONCLUSION

For the reasons stated above, this Committee dismisses the request for an extraordinary challenge for failure to meet the standards of an extraordinary challenge set forth under FTA Article 1904.13. Accordingly, the Binational Panel's January 22, 1991 Memorandum Opinion and Order shall remain in effect and the Order of the Binational Panel dated January 22, 1991, is affirmed.

SIGNED IN THE ORIGINAL BY:

June 14, 1991
(Date)

Arlin M. Adams
Arlin Adams

June 14, 1991
(Date)

Willard Z. Estey
Willard Estey

June 14, 1991
(Date)

Gregory T. Evans
Gregory Evans

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UNITED STATES-CANADA FREE-TRADE AGREEMENT

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O R D E R

For the reasons set forth in the Memorandum Opinion, filed this 14th day of June, 1991, the request for an extraordinary challenge is dismissed for failure to meet the standards of an extraordinary challenge set forth under FTA Article 1904.13, the Binational Panel's January 22, 1991 Memorandum Opinion and Order shall remain in effect, and the Order of the Binational Panel dated January 22, 1991, is affirmed.

SIGNED IN THE ORIGINAL BY:

June 14, 1991
(Date)

Arlin M. Adams
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