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# **In the Productivity Commission**

## **Inquiry into Pig and Piguemeat Industries: Safeguard Action Against Imports**

### **Submission of the Canadian Meat Council and the Canadian Pork Council**

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#### **1 Introduction**

This Submission is lodged on behalf of the Canadian Meat Council and the Canadian Pork Council. The Councils refer to their Public Hearing Submission lodged with the Productivity Commission on 24 August 1998. That submission is repeated and reiterated by the Councils, and should be read as one with this submission.

The Public Hearing Submission sets out the basis of the interest of the Councils in this Inquiry.

##### **1.1 An explanation of the impact on the Australian industries**

This submission describes the circumstances which have impacted upon the fortunes of the Australian pigmeat industries and to pig farmers. It does this by reference to the relevant evidence, and it sets out the evidence both in the text of this submission and in the Annexes to it.

##### **1.2 The relevant criteria under the Agreement on Safeguards**

The opinions of the Councils in respect of the legal meaning to be ascribed to Article XIX of the GATT 1994 and the Agreement and Safeguards are the same as those which have been or are to be put to the Commission by the Government of Canada in its submission.<sup>1</sup> The Councils endorse that submission and adopt the opinions expressed in it as their own.

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<sup>1</sup> The Councils have been informed by Government representatives that the Government will be lodging a detailed submission on these issues, and the Councils are familiar with the contents of that submission.

In particular, the Councils refer to the following aspects of the Government's submission:

- the relevant like product ("*like goods*") are processed pork cuts;
- if the Commission intends to consider an input product as "*directly competitive*", that product is pigmeat;
- the industry or industries producing these products is that or those engaged in pork processing and slaughtering;
- "*serious injury*", in the context of "*substantial overall impairment*" requires a high degree of injury to the relevant industry;
- "*serious injury*", must be caused by the increased imports, or the increased imports must "*threaten to cause*" that degree of injury;
- injury caused by factors other than "*increased imports*" must not be attributed to "*increased imports*" in determining whether those imports have caused "*serious injury*";
- a finding of "*threat*" of "*serious injury*" requires a no less strict adherence to the requirements set out above, and must be "*clearly imminent*" and based on facts;
- safeguard measures are directed at "*emergency action*" needed to remedy "*unforeseen developments*"; and
- it must be considered "*whether or not the application of a safeguard measure would be in the public interest*".

Canadian exporters have been subjected to serious obstacles in their attempts to trade freely with Australian customers. These obstacles have involved (and still involve) strict and costly quarantine restrictions, misinformed dumping or subsidisation complaints, criticism of Australian customers and resellers, and country of origin labelling protests. Despite the concern of the Canadian industries that this inquiry has been triggered in response to strong lobbying by Australian producers who do not represent the views of the wider Australian pigmeat industries and other meat industries, the Councils understand the Commission's role and appreciate the opportunity to present their views.

### 1.3 The keypoints of this submission

- (a) Canadian pork imports within the tariff sub-heading 0203.29 have a small share of the Australian market, having grown from a nil base when quarantine restrictions were lifted in June 1990, to a minor market position which has never exceeded 5% of domestic pigmeat production, which is the raw input product from which the like domestic product is derived.
- (b) Australian producers of the like product, namely pork processors, have not been injured by Canadian imports. In all likelihood they have benefited from the diversity of supply opportunities, otherwise the choice would not have been made to source Canadian imports.
- (c) If the Commission takes the view that pigmeat is a “*directly competitive product*”, and the ambit of the industry is consequently widened to include pigmeat at the slaughtering stage of production, the Councils are unaware of any injury impacts. Furthermore, if the industry is widened even further, to encompass pig growers themselves (a proposition with which the Councils do not agree) it could not be said that those producers of the upstream raw product used in the production of the like product have been “*seriously*” injured, if at all, by Canadian imports. There has been no “*significant overall impairment*”, which is the high degree of injury specified under the Agreement on Safeguards, to producers at any level of the production chain by reason of Canadian imports.
- (d) It will be apparent to the Commission that pig prices fluctuate due to a number of factors. Competition, including oversupply and price impacts from other meat products; the impact of weather and of quarantine restrictions on feedgrain production and cost; feedgrain, food additives and general farm cost increases; inefficiencies and unrealistic production decisions; concentration of wholesale and/or retail power; poor export performance; declines in consumption both in general and due to specific events such as salmonella poisoning fears: each of these have had injurious impacts on Australian producers which together far outweigh any competitive impact of the low volume of Canadian exports. The injurious impacts of these other factors must not be attributed to Canadian imports.

- (e) Canadian exports to Australia have fluctuated by reason of normal market forces consistent with the opening of the market to imports, exchange rate changes and the desire of Canadian exporters to achieve a moderate and profitable market position notwithstanding freight and quarantine compliance cost impediments. Increased imports have taken place in an ordinary and foreseeable way. There is no evidence of abnormal or predatory behaviour on the part of Canadian exporters. Retail price levels in Australia have remained relatively constant, suggesting that the behaviour having the greatest impact on pig prices has a domestic basis, and not an international one.
- (f) It cannot be said that there is a threat of “*serious injury*”, or of injury, having the high degree of impact, and imminence, as required under the Agreement on Safeguards by reason of the increased imports. If the Commission finds that “*increased imports*” have not caused “*serious injury*”, the Commission cannot conclude that there is any threat of serious injury. Import levels of the imported product have reduced since 1997. Significant factors which will influence the decisions of Canadian exporters and Australian buyers in the future do not suggest that there will be increases in the volume of Canadian imports to Australia, nor lower unit prices. These factors include the reduced buying power of the Australian dollar in Canadian dollar terms and, perhaps more importantly, in US dollar terms (the latter having the effect of diverting Canadian supply to compete both in the US and in other export markets in which US and Canadian exporters already compete). Projections of higher prices indicate a likely improvement in the financial performance of the Australian industry.
- (g) The circumstances do not justify the application of safeguard measures under the Agreement on Safeguards, and the Commission should report to the Treasurer accordingly.

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## 2 Canada, Australia and world pork trade

### 2.1 Agricultural terms of trade

The imports being considered by the Commission are one small element of Australian-Canadian agricultural trade. This trade is long established and robust, amounting to approximately \$500 million in 1997 whether measured in Australian or Canadian dollars. Its elements are summarised below<sup>2</sup>

	Canadian exports to Australia CAN\$million	Canadian imports from Australia CAN\$million
Meat	\$27.5	\$109.4
Preparations of meat	\$0.4	\$3.3
Other agricultural	\$30.0	\$328.1
<b>Total agricultural products</b>	<b>\$57.9</b>	<b>\$440.8</b>

Australia has achieved a massive surplus in its agriculture trade with Canada and enjoys a 4:1 ratio advantage in trade in meat. Australians and Canadians are strong consumers of meat. In both countries approximately 100 kilograms of meat on a carcass weight basis were consumed per capita last year, while the Europeans were consuming less than 80 kilograms and Asians less than 50 kilograms<sup>3</sup>.

While the two countries are almost identical in meat consumption *per capita*, there are noteworthy differences in our meat consumption by species. On a *per capita* basis, Australians eat more beef than Canadians, vastly more lamb and mutton and roughly half as much pork. These differences throw interesting light on the substitutability of meat species and the competition among them at all levels from the choices made by individual consumers at the retail counter or the butcher shop back to the farmers and growers engaged in the production of meat.

For example, it appears that pork producers in Australia must compete with a domestic beef industry which is large, efficient and highly competitive in world trade as indicated by its export performance. It appears also that the industries of

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<sup>2</sup> Details of the total trade are set out in Annex 1.

<sup>3</sup> See Annex 2.

Australia producing sheep and wool products, which have no counterpart in Canada, generate lamb and mutton which compete so successfully with the other meat species that they comprise almost 20% of total Australian consumption.

Canada's pork exports to Australia are small in volume and value. There had been no such exports whatever prior to June 1990 when Australia changed its quarantine restrictions to permit imports of frozen, uncooked pigmeat from Canada. Thus the history begins in the 1990s.

The Councils value the market access which was provided by the lifting of quarantine restrictions permitting access to the Australian market. It was to be expected that Canadian pork would grow with the passage of time from zero to some equilibrium determined in the Australian market by the competition among meat of various species, competition from pork exports from third countries and the economics of domestic pork production.

It should be noted in passing that the road toward that equilibrium has not been easy. Canadian market access came under attack in the form of an anti-dumping and subsidisation case in 1992 when the trade was still in infancy at a level of 4000 tonnes per annum. In spite of findings of no dumping, *de minimis* subsidies and no injury,<sup>4</sup> imports from Canada subsequently declined as quarantine protocols were tightened up<sup>5</sup> and other pressures were brought to bear to alter Canada's terms of access to the Australian market. However, following an Industry Commission study in late 1995, which concluded that pigmeat imports had no appreciable effect on the Australian pig and pigmeat market, the trade resumed under more favourable conditions in 1996 and 1997.<sup>6</sup>

## **2.2 Canada's international pork competitiveness**

The Commission will no doubt rely on Australian Bureau of Statistics ("ABS") import statistics to determine the supply of Australian imports from Canada.

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<sup>4</sup> *Frozen pork from Canada* (Australian Customs Service Report and Preliminary Finding No 92/20, 27 November 1992) and *Review of the Australian Customs Service preliminary finding on frozen pork from Canada* (Anti-Dumping Authority report No 90, January 1993).

<sup>5</sup> Despite the permission granted to import uncooked frozen pork (confirmed on 30 July 1990), deboning and domestic processing requirements were introduced in 1992.

<sup>6</sup> *Pigs and Pigmeat*, Industry Commission Research Project, 30 October 1995, key finding 7 page XIII.

However as it may be of assistance for the Commission to have information on Canada's pork exports to other countries, we would be pleased to provide under separate cover Statistics Canada data on pork exports by month and country of destination under each subheading of HS heading 0203 for the period January 1995-May 1998 to the Commission if required.

Canadian pork was exported to approximately 75 countries in that 41 month period. The distribution by product form is set out in the following table.

Subheading	0203 - Meat of swine, fresh, chilled or frozen	Percent of exports (weight basis)
Fresh or chilled		
0203.11	Carcasses and half carcasses	4.5%
0203.12	Hams, shoulders and cuts thereof, with bone in	19.2%
0203.19	Other	30.9%
Frozen		
0203.21	Carcasses and half carcasses	0.1%
0203.22	Hams, shoulders and cuts thereof, with bone in	3.7%
0203.29	Other	41.6%

Canadian pork exports to Australia are concentrated almost exclusively in subheading 0203.29, the classification mentioned specifically in the Terms of Reference. By contrast Canadian exports to the United States, the nearest and largest market to Canada, are mainly in the form of fresh or chilled.<sup>7</sup>

### 2.3 "Public interest" in the context of these trade flows

Article 3.2 of the Agreement on Safeguards refers to the opportunity which must be afforded to interested parties to "*submit their views... as to whether or not the application of a safeguard measure would be in the public interest*". This reflects the proposition that even if all elements are proven to the degree required under the Agreement or Safeguards, measures are discretionary and are not available as of right.

<sup>7</sup> See Annex 3.

In the context of Australia-Canada trade, it is important to note that those Australian industries having the greatest financial interest either do not support assistance for the pigmeat industry by way of safeguard measures, or fear the consequences of any application of such measures.

The Cattle Council of Australia has exhorted the Government to:

*“...ensure that ill informed and populist minority groups do not hijack the debate on trade reform during the election months.”*

Furthermore, and most tellingly:

*“Unfavourable seasonal conditions, extended periods of low prices and global market instability have all contributed to rising dissent. The real benefits to producers from globalisation and trade liberalisation policies are in danger of being overlooked.”<sup>8</sup>*

For its part, the Queensland Sugar Corporation, in its submission to the Commission, says:

*“...it is for this reason that the sugar industry is most concerned that policies in relation to the pig or pigmeat industry are set in a manner which does not encourage retaliatory trade measures from Canada. Such a trade war would be highly damaging to Australian/Canadian sugar trade, an outcome which would be unacceptable to the Queensland sugar industry”.<sup>9</sup>*

These industries account for nearly 80% of Australia's export trade with Canada.

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### **3 Attribution of injury to the Australian industry**

The cause of injury which must be identified to justify the application of safeguard measures under Article XIX is “*increased quantities of imports*”, coupled with the superadded requirement that these increased quantities are being imported “*under*

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<sup>8</sup> “*Cattle Council Urges Federal Government to ‘Move Forward’ on Trade Reform*”, Cattle Council of Australia News Release MR39/98, 31 August 1998.

<sup>9</sup> Queensland Sugar Corporation, Submission No 19, September 1998.



*such conditions*” so as to cause or threaten a particularly grave, or “*serious*” injurious effect on the domestic industry.

As we have already submitted to the Commission, the three calendar years 1995, 1996 and 1997, together with data for so much of 1998 as is available, would be a suitable period to consider import trends.<sup>10</sup>

Canada is without a doubt the main supplier to the pork import trade in Australia. This does not reflect any notable aggressiveness or predatory intent on the part of Canadian exporters. It flows inevitably from the fact that Australia continues to prohibit pork imports from other suppliers with the exception of certain pork from New Zealand and the announcement in November 1997 that pork from Denmark will be permitted under conditions similar to those governing Canadian pork.

The Councils do not deny that, prior to their sharp decline in the first half of 1998, imports of pork from Canada increased from 1995 through to 1997. However, when the increased quantities are considered relative to domestic production, it is clear that the increases are minimal and unremarkable. At their peak in 1997 imports from Canada represented less than 5% of Australian pigmeat production and they have declined substantially in the first six months of 1998.<sup>11</sup> However the 1995-97 increase which is equivalent to less than 3% of Australian pigmeat production, could not be considered to be a “*flood*” of imports, as has been suggested,<sup>12</sup> and on a *prima facie* basis it would not normally deserve consideration as a possible cause of “*serious injury*” as defined under the Agreement on Safeguards.

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<sup>10</sup> Public Hearing Submission of the Councils, Submission No 8, 24 August 1998 at Section 6.3.

<sup>11</sup> Methodology: 1997 pigmeat production at 332, 357 MT carcass weight from ABS. Imports of boneless pigmeat from Canada at 9000 MT converted to cwe of 15,524 MT using a factor of .59. See Section 6.6 for conversion method.

<sup>12</sup> “*Government moves to allow more pork imports*”, Pork Council of Australia Media Release, 24 May 1998.

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## 4 Impacts on Australia's pigmeat industry and pig farmers, and on Canadian imports to Australia

While increased imports in 1997 may have coincided with a downturn in the fortunes of pig farmers, it was not the cause of their problems, nor did it cause serious injury to producers of “*like or directly competitive goods*”.

In view of the requirement of Article 4.2(a) of the Agreement on Safeguards that all relevant factors having a bearing on the situation of the industry be evaluated in an investigation, the following sections describe the major factors that have impacted upon the industry's well-being and place imports in their proper perspective.

### 4.1 1995-1998 - injury factors and market/industry responses

The impact which weather conditions have on agricultural production, markets and prices is well understood by both farmers and agricultural economists. Lack of rain is a recurring problem for farmers in Australia especially in arid interior regions where much of the beef herd is located. The impact of the severe drought in 1994-95 on Australian pork production has been well explained.<sup>13</sup>

The impact of 1994-95 drought conditions on feedgrain prices was also discussed at length in the 1995 Industry Commission Research Project Report “*Pigs and Pigmeat*”.<sup>14</sup> That Report indicates that because of drought conditions, feed costs for pig farmers had increased nationally by over 30% in the twelve months to April 1995. It indicated also that feed costs in New South Wales were estimated to have increased by as much as 40% between April 1994 and January 1995. These increases in feed costs led to many piggeries operating at less than break-even levels.<sup>15</sup>

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<sup>13</sup> Eg an article in “*Australian Commodities*”, June quarter 1998 (Volume 5 No 2) pages 161-168 published by the Australian Bureau of Agricultural and Resource Economics (ABARE) (see Annex 5). Some of the same facts are alluded to and elaborated on in the 10 June 1998 joint news release from Ministers Anderson and Fisher (Annex 6).

<sup>14</sup> Pages 24 ff.

<sup>15</sup> Testimony to the Commission indicates that feed costs are 70% of pig growers costs of production: see, for example, Mr I Nielsen, 19 August 1998 *Transcript* at page 26.

The following chain of events was reconstructed from the ABARE studies.<sup>16</sup> Page numbers are noted where appropriate.<sup>17</sup>

- (a) The economic impact of drought in 1994-95 was severe. At this time the production of feedgrains was substantially reduced and prices rose sharply, with phytosanitary restrictions impeding imports of feedgrains. Unable to obtain the required feed, many pig producers reduced production and others left the industry. Saleyard prices for pigs rose as a result of reduced production. Feedgrain prices remained high until the middle of 1996, pigmeat production continued to decline and saleyard prices remained high.
- (b) 1996/97 was a high profit year ABARE notes that as grain prices were well below the peak of 1994/95 and pig prices continued firm, profitability rose sharply. There was a 100% increase in the profit margin per kilogram in 1996/97 compared to 1995/96 due to lower feed prices and higher hog prices.<sup>18</sup> An outbreak of foot and mouth disease in Taiwan raised expectations of new export opportunities for pork in Japan. A national program to develop export markets was announced. There were substantial on-farm stocks of wheat and other feedgrains as a result of a record 1996-97 grain harvest. In response to all the above, producers expanded production. In response to high prices and a favourable exchange rate, imports from Canada increased.
- (c) There was a downturn in the first half of 1998. Saleyard prices for cattle fell by 13% between November 1997 and April 1998 because of unusually high slaughter levels necessitated by very dry conditions in cattle producing areas.<sup>19</sup> Low beef prices depressed demand for pigmeat just as increased domestic production of pigmeat came on stream.<sup>20</sup> Imports continued but at lower levels. In November 1997 the prices that pig producers received fell rather than rose as usually happens in the pre-Christmas season. Many pig

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<sup>16</sup> *Australian Commodities*, June Quarter 1998, reproduced in Annex 4.

<sup>17</sup> Page 161 ff.

<sup>18</sup> *Australian Pig Industry Handbook "Pig Stats 97"* at page 62.

<sup>19</sup> *Australian Commodities*, pages 161-162.

<sup>20</sup> *Ibid*, page 167.

farmers held off marketing their pigs resulting in an overhang of production. Despite a sharp fall in imports and an increase in exports pig prices remained low to the end of May 1998 (this surely is an indication of local oversupply). Beef saleyard prices remained flat in the first four months of 1998 but rose towards the end of April in response to widespread rain across Eastern Australia. Rains continued in May 1998.<sup>21</sup>

## 4.2 Effect of exchange rate changes

In all of this the effect of exchange rate variations is also critical to understanding how the competitive condition of the Australian and Canadian industries has changed. The ramp-up in imports of pigmeat from Canada which occurred between mid 1996 and the end of 1997<sup>22</sup> followed a substantial appreciation in the value of the Australian dollar vis-a-vis the Canadian dollar. After two years of virtual parity, the value of AUD1.00 climbed strongly in the early months of 1996 to a plateau of CDN1.08 where it remained until the latter half of 1997.<sup>23</sup> The decline in imports in late 1997 and early 1998 followed an even larger depreciation of AUD1.00 from CDN1.07 in May 1997 to CDN0.91 in May 1998.

The US is Canada's main competitor for pork exports to world markets. The relative values of the US and Canadian currencies is an important factor in this competition. The Canadian dollar has in the past several months been trading at record lows in USD terms. This means not only that the US itself is an attractive market for Canadian pork exports, but that Canadian exporters have an added advantage in third markets where both countries compete.

This phenomenon is illustrated in Annex 7. The first graph shows the widening gap between the Australian and US dollars (valued in Canadian funds) that has occurred since mid-1997. The table on page 2 shows the average value or "*price*" of Canada's exports to Australia and the US in each month since January 1995. From this it is possible to calculate the "*premium*" that has been available on exports to Australia, and this is shown on the graph on page 3 of Annex 7. When

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<sup>21</sup> Ibid, Page 162.

<sup>22</sup> See Annex 5.

<sup>23</sup> See Annex 6.

this is compared with the graph of monthly import volumes in Annex 5, one is led to conclude that the price premium available on Canada's pork exports to Australia is linked to exchange rates and that when the available premium is small the volume shipped to Australia declines.

#### **4.3 Canadian exports have been of low volume and do not set prices**

Due to phytosanitary regulations, the Australian market for fresh or frozen pork is closed to all but NZ, Canada and Denmark. The latter two countries' access is also severely restricted in terms of type of product permitted and the requirement that the pork be processed after importation.

Denmark and NZ have so far not shipped any appreciable volume of frozen boneless pork to Australia and thus Canada is in the position of a preferred (or sole) supplier. In the absence of competition from other foreign suppliers, trade theory would suggest that, when local supply and demand are more or less in balance, Australian prices would tend to be above the levels in major world markets that are open to import competition and that Canadian exporters would "*price up*" to the Australian market price. Conversely, if local oversupply were to cause Australian prices to fall below world levels, one would expect Canadian exporters to send their product elsewhere. The available statistics and market intelligence appear to support these hypotheses.

As small suppliers in what is essentially a commodities market, Canadian exporters of pigmeat to Australia are price takers rather than price setters or leaders. This was confirmed by a survey of exporters conducted for the purposes of this inquiry. Most respondents said that export volumes to Australia declined substantially in the first half of calendar 1998 because Australian buyers were not prepared to pay prices that would yield a profit or match what they could get in other markets. Several respondents noted that prices in Australia began to firm in July and August 1998. These observations are validated by Annex 8, which charts movements in the average value per kilogram of Canadian pork imports into Australia.

#### **4.4 What factors drive prices in Australia?**

If import volumes change in response to price changes in Australia rather than the reverse, what is driving pork prices in Australia and the market share held by

domestic producers? The ABARE study cited above suggests that there are two main factors. These are domestic supply of live pigs and the price of meat of other species, particularly beef.<sup>24</sup> These factors are themselves both heavily influenced by weather conditions, affecting the price and availability of fodder. Monthly figures on Australian pigmeat production<sup>25</sup> indicate that pigmeat production was trending upward in the first six months of 1998, when imports from Canada declined. This suggests increased slaughterings as a result of the increased pig production, which followed the high profit year 1996/97.

Industry spokespersons have asserted that the “*crash*” in pig prices in early 1997 was due to increased imports. Available data presented in Annex 11, does not support the thesis that pig prices decline when import volumes rise. First, note that after falling sharply between January and May 1997, pig prices rose between May and November 1997 when imports from Canada were also increasing. In the first six months of 1998, pig prices were lower than they had been in the first half of 1997. On the same year-over-year basis, imports from Canada were down 26.5% (or 1,090 MT) in the first half of 1998, while Australian production was up by 10,000 MT or 6.6%.

Much has been written about the impact of beef prices on demand for pork. Annex 12 indicates that the ratio between beef and pork prices in all of 1997 and the first quarter of 1998 was substantially below the levels that prevailed in the previous three or four years.

The third factor which needs to be investigated by the Commission is the lack of response in prices at the retail level to the farm gate price changes.

We conclude that the current low prices for pigs and pigmeat appear to be due to a combination of factors such as increased production, lower feedgrain prices and lower beef prices rather than import competition.

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<sup>24</sup> See Annex 9, which contains a copy of an ABARE media release entitled “*Fierce competition between red and white meats*” (33/094, 3 February 1994); an extract from the Industry Commission Research Project Report *Pigs and Pigmeat* (Page 19); “*Government Announces Pig Industry Assistance*”, Joint Statement of Ministers for Primary Industries and Energy and for Trade, 10 June 1998 (see attached “*Factsheet*”); and USDA Agricultural Baseline Projections to 2007, February 1998 (at pages 111 and 112).

<sup>25</sup> See Annex 10.

## 4.5 Structural changes to Australian industry

The immense structural changes that have taken place in the Australian pig and pigmeat industry since 1970 are well documented.<sup>26</sup> The number of producers has declined dramatically and the volume of production has almost doubled in the last three decades. Australian producers have begun to pursue export markets with some success and are now in a position where Australia is a net exporter of pigmeat.

However, we know of no case where closing a market to import competition has facilitated adjustment into more efficient methods of operation. Article 8 of the Agreement on Safeguards provides that:

*“Safeguards measures shall be applied only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.”*

It is the Councils’ view that there is no “*serious injury*” which needs to be remedied, and that artificial barriers to entry would merely further insulate the Australian industry and impede adjustment.

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## 5 There is no threat of serious injury

ABARE reports improved prospects for pig and pigmeat production for the financial year 1998-99.<sup>27</sup> The following points are noted:

- (a) the saleyard indicator price for beef and veal is forecast to increase by over 6% in the twelve months beginning July 1, 1998;<sup>28</sup>
- (b) slaughter of cattle in 1998-99 will be 9% lower than the previous year;<sup>29</sup>
- (c) Australian exports of beef to Japan are forecast to increase by 3% in 1998-99;<sup>30</sup>

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<sup>26</sup> See *Pigs and Pigmeat Industry Commission Research Project Report*, 20 October 1995 and in *Australian Commodities*, June quarter 1998, ABARE Study published in June 1998 (Graph B, page 166).

<sup>27</sup> *Australian Commodities*, June Quarter 1998 ABARE (Annex 4).

<sup>28</sup> *Ibid*, page 161.

<sup>29</sup> *Ibid*, page 162.

<sup>30</sup> *Ibid*, page 162.

- (d) the saleyard indicator price for pigs is forecast to recover sufficiently that the average for the twelve months beginning July 1, 1998 will be 200¢/kilogram compared to 197¢ in the previous twelve months;<sup>31</sup>
- (e) pigmeat production is expected to remain high in the last half of calendar 1998 reflecting slaughter of pigs already in the system; and
- (f) however, lower feed costs are expected to lead to improved feeding margins during 1998-99 (and presumably improved profits).<sup>32</sup>

In respect of Canadian imports in the future, the Councils see no evidence of any impending surge of imports. Interviews with Canadian packers and traders reveal a general expectation that second half calendar 1998 volume will be lower than first half and that 1997 volume will not be exceeded this year. Canadian exporters expect that the prices obtainable in Australia, in terms of Canadian dollars, will continue to be relatively unattractive because of exchange rate trends which commenced in 1997 and continue in 1998.

Certainly there is no evidence of increased imports on a scale which would threaten serious injury either imminently or in the clearly foreseeable future. If the Commission concludes that the “*increased imports*” have not caused serious injury, then it is not open for the Commission to conclude that there may be a threat of serious injury because current data indicates that imports are not “*being*” imported in increasing quantities.

The Food and Agricultural Policy Research Institute (“FAPRI”) predicts that the USA will capture most of the future growth in international trade in pork (see Annex 13). It expects Taiwan’s exit from the Japanese market will fundamentally change the dynamics of Japanese pork imports. These are forecast to grow at an average of 3% annually for the next decade but if and when Taiwan gets back to FMD-free status (perhaps by 2002), FAPRI expects its pork exports will be much lower than previously.

FAPRI projections for the major net exporting countries show Canada’s exports peaking in 2000 and thereafter declining both in absolute numbers and as a

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<sup>31</sup> Ibid, pages 165 and 168.

<sup>32</sup> Ibid, page 168.



percentage of a rising total trade. Steady growth in world pork consumption is forecast.

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## 6 Comments and/or rebuttal of other submissions

### 6.1 Are pork processors suffering any injury?

Aside from Bunge Meat Industries Pty Ltd, no pork processors came to the public hearings to explain how imports of Canadian pork harm or benefit their operations. For their part, Bunge witnesses focussed largely on price and cost pressures faced by their piggery operations. They did not give any evidence about the impact of imports on their processing arm (Don's Smallgoods) but did admit under questioning that "*the processors are probably experiencing a reasonable time at this stage*".<sup>33</sup> In regard to losses in their piggery operation they failed to show any causal link to imports from Canada. This was also true of the evidence of other witnesses who put the case for increased protection against imports from Canada.

Pork processing is the primary industry under investigation in this case. If it cannot demonstrate that it has suffered "*serious injury*", then the test of significant overall impairment cannot be met even if the Commission extends the industry to slaughtering and finds it has suffered injury, no matter what the cause of that injury.

### 6.2 A number of competing causes of injury

Almost without exception, witnesses appearing before the Commission and interested parties in their submissions have recognised that many factors have contributed to the recent problems of Australian pig farmers. Those cited included:

- feed and protein supplement prices that are often higher than in Canada and other major pork producing countries;<sup>34</sup>
- drought;

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<sup>33</sup> *Transcript*, 24 August 1998, at page 76.

<sup>34</sup> Eg, Ian Vallis, Submission No. 12; Mr I Neilson, *Transcript* of 19 August 1998 at page 26; Mr T Reed, *Transcript* of 19 August 1998 at page 35; Ms S McClintock, *Transcript* of 24 August 1998 at pages 86 and 98; and Ms C Sapwell, *Transcript* of 24 August 1998 at page 119.

- reduced pork consumption as a result of salmonella being found in smallgoods in April 1997;
- failure of processors to honour contracts when pig prices declined, while maintaining profitable prices to retailers;<sup>35</sup>
- price rigidity at the retail level which prevents consumers from benefiting from efficiencies gained earlier in the supply chain, thus dampening growth in *per capita* consumption;<sup>36</sup>
- barriers to exporting;<sup>37</sup>
- Australia's hot climate which causes low fertility rates during the summer months, affecting pig supply for the next December when demand is highest;<sup>38</sup> and
- quarantine restrictions on genetic materials.<sup>39</sup>

With so many causes of injury acknowledged by the Australian pigmeat industries themselves, the Councils submit that there is no conceivable basis for a finding that separately identifiable “*serious injury*” in the sense of a “*significant overall impairment*” has been caused by increased imports. Safeguard measures on Canadian imports will not improve feed prices, nor increase pork consumption, nor alter downstream pricing behaviour, nor change Australia's weather, nor convince AQIS to change quarantine rules. Each of these injury factors can and should be addressed by the Australian pork industry to improve its fortunes.

### 6.3 Alleged Canadian subsidies

Costs facing the Australian industry are a major cause of complaint, and the apparent suggestion is that Canadian producers don't face similar costs because of Canadian Government assistance. Although it is the costs to pig growers that are being referred to (not part of the relevant industry, in our view) it is worthwhile to

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<sup>35</sup> Eg, Ms S McClintock *Transcript* of 24 August 1998 at page 89; and Ms C Sapwell, *Transcript* of 24 August 1998 at page 120.

<sup>36</sup> Mr T Reed, *Transcript* of 19 August 1998 at page 36.

<sup>37</sup> Mr T Reed, *Transcript* of 19 August 1998 at page 36.

<sup>38</sup> Ms S McClintock, *Transcript* of 24 August 1998 at page 91.

<sup>39</sup> Mr T Reed *Transcript* of 19 August 1998 at page 35.

consider the views of those pig growers as to what affects them most. One piggery owner has this to say about this issue:

*“The Australian pig industry is currently being expected to produce pigs at prices comparable to those in North America. However it is being asked to do so with an uncompetitive Australian input cost structure. These costs largely reflect issues beyond the direct control of pig producers; principally being related to differences in policies of governments in Australia and North America.”*<sup>40</sup>

Another interested party also complains that subsidies:

*“We believe that the Hurstbridge Group of Companies has suffered serious injury because subsidised imports have reduced our ability to compete directly in the domestic market.”*

The assumption in these opinions, to the effect that Canadian pig growers are subsidised, is not borne out. US government studies have concluded that the production of Canadian hogs is not subsidised.<sup>41</sup>

#### **6.4 Reduced consumption**

As interested parties have pointed out, consumption of pigmeat has reduced on a *per capita* basis in Australia.<sup>42</sup> The reasons for this may be hard to pin down precisely. They would include competition from other meats, health fears (whether justified or unjustified) and consumer trends. But it is at least clear that reduced consumption can have nothing to do with imports, and any injury caused to the pigmeat industry because people are eating less pork cannot be attributed to imports.

#### **6.5 Concentration of wholesale/retail power**

Despite the fact that most argumentation in this case is based on “*upstream*” factors and effects, “*downstream*” considerations are possibly much more

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<sup>40</sup> Submission No 3, Ingoldsby Piggery, 17 August 1998.

<sup>41</sup> “*Live Swine from Canada: Final Results of Countervailing Duty Administrative Review*”, US Federal Register, 4 September 1998 at pages 47,235 ff (copy at Annex 14).

<sup>42</sup> See eg, NSW Farmers’ Association, Submission No 13 at page 8.

important to the position the Australian pig growing industry finds itself (and, again, we make these comments without agreeing that pig farmers are part of the relevant industry).

A number of interested parties, apart from the Councils, have identified domestic market behaviour as a factor which causes injury by suppressing price at lower levels of production. For example:

*“Mention must be made of corrupt marketing prices. The recent milk industry situation, whereas all segments in the pipeline received reduced prices except for big increases of the supermarket chains. Consumers did not receive any reduction in price. The same situation has been documented last year for the pork industry, where vast reductions in prices to producers were not reflected by lower prices for consumers.”*<sup>43</sup>

Numerous other interested parties have also commented on the disturbing observation that market power in Australia is working against their better interests.<sup>44</sup>

## **6.6 Carcass weight equivalent and conversion factors**

Those who cite numbers comparing imports of pigmeat from Canada with domestic production in Australia often state that the comparisons are on a “*carcass weight equivalent*” without specifying what conversion factor is used. It is important that this factor be as accurate as possible so as to avoid distorting the resultant market share percentage. In Canada, the federal department of Agriculture and Agri-food had done extensive work to determine what portion of a typical hog carcass goes to saleable pork and what part of the total carcass weight is skin, fat and bone. If one were to look only at that part of the carcass used to make boneless leg ham for export to Australia, one would find that the weight of the saleable pork is 68% of the weight of the leg before skinning, defatting and deboning. For the loin, the percentage of saleable lean pork would be 60%; for the butt, 73%; and for a shankless “*picnic*”, 76.5%. These figures are based on a carcass weighting 81.5 kilos, including head, feet and leaf lard. They would vary

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<sup>43</sup> Bannockburn Quality Association, Submission No 20, 26 August 1998.

<sup>44</sup> See eg, Ingoldsby Piggery, Submission No 3, 14 August 1998 at page 7. See also footnote 36.

slightly for heavier or lighter carcasses, but only by a point or two.

It is difficult to come up with a true defatted, boneless weight for the total carcass, because some of the middle cuts are never sold without the bone (eg side ribs) or without a fair amount of fat or even skin (eg bacon). For this reason (and the inappropriate deduction made for fresh meat), we believe that the methodology used in the 1995 Industry Commission Report<sup>45</sup> to convert Australian pigmeat production to a boneless, skinless, fat-free equivalent is seriously flawed. The Commission deducted a full 60% of the weight of the carcass to allow for head, fat, skin and bone removal, giving a lean meat yield of only 40%. The much higher yield figures given above from the Canadian “*cut-out*” project make no allowance for the head, leaf lard and certain bone-heavy edible parts such as feet, hocks and tail. Making appropriate deductions for these would give a defatted, boneless-cut yield of 59% for the carcass as a whole. The Councils note that the Australian Pork Corporation uses a conversion factor of .56 but we have no knowledge of how it was calculated. We urge the Productivity Commission to use a factor of .59 when comparing imports to domestic production and to use the total pigmeat production figure for comparison purposes, not just that for baconer or legs. The domestic producers cannot have it both ways: they cannot argue that a small tonnage of boneless frozen pork from Canada has a flow-through effect on prices and production volumes in the entire pigmeat industry as well as on pig-farming and at the same time restrict the discussion of market shares to a particular segment or segments of the pork market.

## **6.7 Exaggeration of import statistics**

The Australian Pork Corporation claims that imports are currently at a “*plateau*” of 11,000MT. Australian Bureau of Statistics figures show total imports in the relevant tariff category peaking at just over 9,000MT in the 12 months ending December 1997. The rolling 12 month total declined in each of the next 5 months, increased slightly in June but has not approached the peak of 9,000MT, which itself is much less than the alleged plateau of 11,000MT.

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<sup>45</sup> Page 108.

## 6.8 4,000MT impact claim not supported

The claim by Mr. Smith of Bunge Meat Industries<sup>46</sup> that Australian pig prices plummeted when imports from Canada exceeded 4,000MT is not supported by the facts. The 12 month rolling total for imports from Canada was running at over 4,000MT for the entire period of September 1995 to January 1996, but pig prices were increasing during this period. The 12-month import total again exceeded 4,000MT in September 1996 (and has stayed above this level since) but pig prices did not begin their steep decline until January 1997. They started to rise again midway through calendar 1997, even though import volumes were climbing.<sup>47</sup>

## 6.9 Safeguards should not be used to support export activities

Many submissions to the Productivity Commission have claimed that there is a need for safeguard measures to give the Australian pig industry a chance to adjust and expand in order to take advantage of export opportunities.<sup>48</sup> But the Industry Commission study of 1995 into the pig and pigmeat industries clearly and appropriately stated the following:

*“The Pork Council of Australia believes that the export market will be the industry’s most important objective for its continued viability. If the Australian pig industry is to become export oriented, it is vital that it compete successfully with imports. Sheltering it from imports will not assist its development. Several participants, including the Pork Council of Australia, recognise that imports could encourage greater competitiveness in local industry”.*<sup>49</sup>

## 6.10 Pigs come in a full set

The Councils do not support the proposition that there is an isolated industry producing legmeat or that any impact of the imports from Canada (in terms of

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<sup>46</sup> Transcript of 24 August 1998 at pages 20 and 21.

<sup>47</sup> Source: Pig Stats 1997 and ABS

<sup>48</sup> In its submission, NSW Farmers states that “... all ham prices in Australia now reflect world parity.” Is it therefore being suggested that domestic prices need to be higher than world parity in order for Australian producers to compete at world parity in international markets?

<sup>49</sup> Page xxv.

volume, market share or price) should be assessed on that unrealistic basis. The idea that there might be an isolated market or industry for any primary cut of pork contradicts the reality that no farmer in the world can grow legs without at the same time producing corresponding numbers of backs, bellies, shoulders etc. Pigs come in sets.<sup>50</sup>

All components of pigmeat, having passed through the hands of the pork processing industry, end up in retail outlets, butcher shops and other places such as restaurants where the consumers make their choices. No portion of the pigmeat is discarded. Every part of it, duly processed, is sold and consumed. The argument that the competition is between ham and ham is in basic conflict with the position of some pig farmers that boneless ham competes with their product, which necessarily includes all portions of the pig and not merely one of it.<sup>51</sup>

Furthermore, the Terms of Reference are not directed at any particular cut of pork, but to the entirety of the tariff item 0203.29. This encompasses any type of boneless pork cut that may be imported from Canada or any other country in the world. The idea that some interested parties have expressed, which is that only leg hams are relevant, contradicts the strident call by all pig growers and other interested parties that their product is directly competitive to imported pork cuts. The market is a wide one, and the apparent inability of Australian pig growers to make money on the total pig from which competitive pork cuts are derived is telling as to the lack of any causal link between increased imports predominantly but not exclusively of legmeat cuts and claimed injury.

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## 7 Concluding comments

In summation, the Councils maintain that "*the industry*", appropriately defined, is the pork processing industry in Australia and that "*the industry*" does not include pig farmers. If the Commission takes the view that pigmeat is a "*directly competitive product*" then the slaughtering industry will become relevant for consideration. There is no evidence that the pork processing industry has been

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<sup>50</sup> Ingoldsby Piggery, Submission No 3, 14 August 1998 at page 9.

<sup>51</sup> See eg, Hans Continental Smallgoods, Submission No 5 at page 2 (discussion of imports of pork back fat and sow meat); and Salkim Pty Limited, Submission No 15 at page 1 (discussion of competition with fresh pork).

injured by imports, nor have any claims of injury been made on behalf of that industry as a whole, or by abattoirs.

It is recognised that the producers of pigs have problems periodically arising from low pig prices and high input costs. Vociferous efforts have been made to ascribe these problems to imports of boneless frozen pork cuts from Canada. However there appears to be no causal relationship between the problems complained of by the pig farmers and the imports from Canada. This is not surprising because it is fundamentally implausible that the imports which amounted to less than 500 grams of boneless pork per capita in their highest year, 1997, could have any important impact on the producers of meat animals in Australia or specifically the producers of pigs.

The Canadian imports, adjusted to carcass weight equivalent, have never exceeded 5% of the pigmeat produced in Australia, a "*market penetration*" figure which is trivial as an alleged injury factor in comparison with the high standard of "*serious injury*". In the view of the Councils, the notion that serious injury has been caused to the pig producers by the imports from Canada is simply untenable.

Turning from the past to the present, the fact is that imports from Canada declined in the first half of 1998 by more than 25% from the year earlier level. This decline was caused by the simple fact that the prices available from the Australian market were unattractive. Thus there are no increased quantities of pork imports in 1998. To the contrary, there has been a decrease in the quantity of pork imported into Australia in recent times.

The Councils respectfully submit that imports from Canada have not caused and are not threatening to cause serious injury to the production of like or directly competitive goods in Australia. More specifically, the Councils maintain that imports of pork from Canada, or from the world in aggregate, are not of the absolute or relative magnitude required to warrant safeguard action under the Agreement on Safeguards.

Accordingly, the Councils respectfully request the Commission to report to the Treasurer that circumstances do not justify safeguard measures to be imposed on imports of meat of swine, frozen, falling within tariff sub-heading 0203.29 of the



Australian Customs Tariff as referred to in Gazette S297 of 25 June 1998. It is unnecessary for the Productivity Commission to consider measures which would be necessary to prevent or remedy serious injury and to facilitate adjustment.

**Submitted for and on behalf of the Canadian Meat Council and the Canadian Pork Council by their Australian lawyers, Freehill Hollingdale & Page, Canberra assisted by Corporation House, Canadian international trade counsel to the Councils, Ottawa**

**Daniel Moulis  
Partner  
FREEHILL HOLLINGDALE & PAGE**

21 September 1998

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## 8 List of attachments

<b>Number</b>	<b>Attachment</b>
1	Australian-Canadian Trade in Agricultural Products
2	Meat Consumption - Various Countries
3	Canadian Pork Exports to USA
4	ABARE study of June 1998
5	Australian Imports of Pork from Canada (by month and by 12 month rolling total). Source: ABS
6	Canada-Australia Exchange Rate. Source: Bank of Canada
7	Value of Australian & US dollars in Canadian Funds and "Premiums" on Exports to Australia. Source: Statistics Canada export data
8	Average Price of Pork Imports from Canada. Source: ABS
9	ABARE Media Release 33/094; extract from Industry Commission report Pigs and Pigmeat; Joint Ministerial Statement; and USDA Projections.
10	Australian Pig Meat Production. Source: ABS
11	Pig Indicator Price. Source (of price data): ABS
12	Retail Prices - Beef, Pork and Lamb. Source (of price data): ABS
13	Excerpt from FAPRI 1998 World Agricultural Outlook
14	Extract from US Federal Register

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**In the Productivity Commission**  
**Inquiry into Pig and Pigmeat Industries**

**Major Submission of the Canadian Meat Council and the  
Canadian Pork Council**

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