

review is February 10, 2001 through November 30, 2002. This extension is made pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended.

**EFFECTIVE DATE:** April 14, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Brandon Farlander at (202) 482-0182 or Dena Aliadinov at (202) 482-3362; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Statutory Time Limits**

Section 751(a)(2)(B)(iv) of the Act requires the Department to issue the final results of a new shipper review within 90 days after the date on which the preliminary results were issued. However, if the Department determines the issues are extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the deadline for the final results to up to 150 days after the date on which the preliminary results were issued.

**Background**

On December 31, 2002, the Department received properly filed requests from Shanghai Xiuwei International Trading Co., Ltd. ("Shanghai Xiuwei") and Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. ("Sichuan Dubao"), in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, for a new shipper review of the antidumping duty order on honey from the People's Republic of China (PRC), which has a December anniversary date, and a June semiannual anniversary date. Shanghai Xiuwei identified itself as an exporter of processed honey produced by its supplier, Henan Oriental Bee Products Co., Ltd. ("Henan Oriental"). Sichuan Dubao identified itself as the producer of the processed honey that it exports.

On February 5, 2003, the Department initiated this new shipper review for the period February 10, 2001 through November 30, 2002. See *Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews* (68 FR 5868, February 5, 2003). On July 21, 2003, the Department extended the preliminary results of this new shipper review by 180 days until November 26, 2003. See *Honey from the People's Republic of China: Extension of Time Limits for Preliminary Results of New Shipper Antidumping Duty Review*,

68 FR 43086 (July 21, 2003). On December 4, 2003, the Department published its preliminary results of this review. See *Notice of Preliminary Results of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 68 FR 67832 (December 4, 2003) (*Preliminary Results*). In the preliminary results of this review, we indicated that we were unable to complete our analysis of all factors relevant to the bona fides of Shanghai Xiuwei's and Sichuan Dubao's U.S. sales. We described our research and contact efforts in the Memorandum from Brandon Farlander and Dena Aliadinov to the File, dated November 26, 2003. We also indicated that additional time was needed to research the appropriate surrogate values to value raw honey. On February 25, 2004, the Department extended the final results of this new shipper review 30 days until March 25, 2004. See *Notice of Extension of Time Limit of Final Results of New Shipper Review: Honey from the People's Republic of China*, 69 FR 8625 (February 25, 2004). On March 31, 2004, the Department extended the final results of this new shipper review by an additional 14 days until April 8, 2004. See *Notice of Extension of Time Limit of Final Results of New Shipper Review: Honey from the People's Republic of China*, 69 FR 16892 (March 31, 2004).

**Extension of Time Limits for Preliminary Results**

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department may extend the deadline for completion of the final results of a new shipper review by 60 days if it determines that the case is extraordinarily complicated. The Department has determined that this case is extraordinarily complicated because of the issues pertaining to the bona fides of Shanghai Xiuwei's and Sichuan Dubao's U.S. sales. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the regulations, the Department is extending the time limit for the completion of the final results by an additional 16 days. The final results will now be due no later than April 26, 2004.

This notice is published pursuant to sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: April 8, 2004.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import Administration, Group III.*

[FR Doc. 04-8480 Filed 4-13-04; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-122-850]**

**Notice of Initiation of Antidumping Investigation: Live Swine From Canada**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**ACTION:** Initiation of Antidumping Investigation.

**SUMMARY:** The Department of Commerce is initiating an antidumping investigation to determine whether producers and exporters of live swine from Canada are selling live swine to the United States at less than fair value.

**EFFECTIVE DATE:** April 14, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Judith Wey Rudman at (202) 482-0192, Cole Kyle at (202) 482-0192, or Andrew Smith at (202) 482-1276; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**Initiation of Investigation**

*The Petition*

Between March 5 and 30, 2004, the Department of Commerce ("the Department") received a petition, and amendments to the petition, filed in proper form by the Illinois Pork Producers Association, the Indiana Pork Advocacy Coalition, the Iowa Pork Producers Association, the Minnesota Pork Producers Association, the Missouri Pork Association, the Nebraska Pork Producers Association, Inc., the North Carolina Pork Council, Inc., the Ohio Pork Producers Council, and 119 individual producers of live swine<sup>1</sup>

<sup>1</sup> Alan Christensen, Alicia Prill-Adams, Aulis Farms, Baarsch Pork Farm, Inc., Bailey Terra Nova Farms, Bartling Brothers Inc., Belstra Milling Co. Inc., Berend Bros. Hog Farm LLC, Bill Tempel, BK Pork Inc., Blue Wing Farm, Bornhorst Bros, Brandt Bros., Bredehoeft Farms, Inc., Bruce Samson, Bryant Premium Pork LLC, Buhl's Ridge View Farm, Charles Rossow, Cheney Farms, Chinn Hog Farm, Circle K Family Farms LLC, Cleland Farm, Clougherty Packing Company, Coharie Hog Farm, County Line Swine Inc., Craig Mensick, Daniel J. Pung, David Hansen, De Young Hog Farm LLC, Dean Schrag, Dean Vantiger, Dennis Geinger, Double "M" Inc., Dykhuis Farms, Inc., E & L Harrison Enterprises, Inc., Erle Lockhart, Ernest Smith, F & D Farms, Fisher Hog Farm, Fitzke Farm, Fultz Farms, Gary and Warren Oberdiek Partnership, Geneseo Pork, Inc., GLM Farms, Greenway Farms, H & H Feed and Grain, H & K Enterprises, LTD, Ham Hill Farms, Inc., Harrison Creek Farm, Harty Hog Farms, Heartland Pork LLC, Heritage Swine, High Lean Pork, Inc., Hilman Schroeder, Holden Farms Inc., Huron Pork, LLC, Hurst AgriQuest, J D Howerton and Sons, J.L. Ledger, Inc., Jack Rodibaugh & Sons, Inc., JC

Continued

(hereinafter “the petitioners”). The Department received information supplementing the March 5, 2004, petition on March 18, 22, and 30, 2004. On March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004, in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. See March 25, 2004, memorandum from Jeffrey May, Deputy Assistant Secretary for Import Administration, Group I, to James J. Jochum, Assistant Secretary for Import Administration, entitled “Antidumping and Countervailing Duty Petitions on Live Swine from Canada: Extension of Deadline for Determining Industry Support” (“Initiation Extension Memo”), which is on file in the Department’s Central Records Unit (“CRU”) in Room B-099 of the main Department building.

In accordance with section 732(b) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (“URAA”) effective January 1, 1995 (“the Act”), the petitioners allege that imports of live swine from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties, as defined in section 771(9)(E) and (F) of the Act, and have demonstrated sufficient industry support in accordance with section 732(c)(4)(A). See *infra*, “Determination of Industry Support for the Petition.”

Howard Farms, Jesina Farms, Inc., Jim Kemper, Jorgensen Pork, Keith Berry Farms, Kellogg Farms, Kendale Farm, Kessler Farms, L.L. Murphrey Company, Lange Farms LLC, Larson Bros Dairy Inc., Levelue Pork Shop, Long Ranch Inc., Lou Stoller & Sons, Inc., Luckey Farm, Mac-O-Cheek, Inc., Martin Gingerich, Marvin Larrick, Max Schmidt, Maxwell Foods, Inc., McKenzie-Reed Farms, Meier Family Farms Inc., MFA Inc., Michael Farm, Mike Bayes, Mike Wehler, Murphy Brown LLC, Ned Black and Sons, Ness Farms, Next Generation Pork, Inc., Noecker Farms, Oaklane Colony, Orangeburg Foods, Oregon Pork, Pitstick Pork Farms Inc., Prairie Lake Farms, Inc., Premium Standard Farms, Inc., Prestage Farms, Inc., R Hogs LLC, Rehmeier Farms, Rodger Schamberg, Scott W. Tapper, Sheets Farm, Smith-Healy Farms, Inc., Square Butte Farm, Steven A. Gay, Sunnycrest Inc., Trails End Far, Inc., TruLine Genetics, Two Mile Pork, Valley View Farm, Van Dell Farms, Inc., Vollmer Farms, Walters Farms LLP, Watertown Weaners, Inc., Wen Mar Farms, Inc., William Walter Farm, Willow Ridge Farm LLC, Wolf Farms, Wondraful Pork Systems, Inc., Wooden Purebred Swine Farms, Woodlawn Farms, and Zimmerman Hog Farms.

### Scope of Investigation

The products covered by this investigation are all live swine from Canada except U.S. Department of Agriculture (“USDA”) certified purebred breeding swine. Live swine are defined as four-legged, monogastric (single-chambered stomach), litter-bearing (litters typically range from 8 to 12 animals), of the species *sus scrofa domestica*. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (“HTSUS”) subheadings 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, 0103.92.0090.<sup>2</sup>

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department’s regulations (see *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration’s Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department’s industry support determination, which is to be made before the initiation of an investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the

petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (1) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (2) determine industry support using a statistically valid sample.

Section 771(4)(A) of the Act defines the “industry” as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.<sup>3</sup>

Section 771(10) of the Act defines the domestic like product as “a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

The domestic like product referred to in the petition is the domestic like product defined in the “Scope of Investigation” section above. No party has commented on the petition’s definition of the domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

<sup>2</sup> Prior to June 30, 2003, HTSUS subheadings 0103.91.0010, 0103.91.0020, and 0103.91.0030 were all included under one heading, HTSUS 0103.91.0000.

<sup>3</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988).

As noted above, on March 25, 2004, the Department announced that it was extending the deadline for the initiation determination to not later than April 14, 2004, in order to establish whether the antidumping and countervailing duty petitions were filed by or on behalf of the domestic industry. *See Initiation Extension Memo*. The Department has determined that, pursuant to section 732(c)(4)(A) of the Act, the petition contains adequate evidence of industry support (*see*, April 7, 2004, "Office of AD/CVD Enforcement Initiation Checklist" ("*Initiation Checklist*") on file in the CRU). We determine that the petitioners have demonstrated industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are met. The Department received no opposition to the petition. Accordingly, we determine that the petition is filed on behalf of the respective domestic industry within the meaning of section 732(b)(1) of the Act.

#### *Allegations and Evidence of Material Injury and Causation*

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). The petitioners contend that the industry's injured condition is evident in the declining trends in financial indicators, depression of prices, declining profitability, production volume and value, lost market share, and lost jobs. The petitioners further allege threat of injury due to excess production in Canada and increased import volumes and market penetration, causing further price depression. The allegations of injury and causation are supported by relevant evidence including U.S. Census Bureau import data, USDA and University of Iowa data, hog statistics from Statistics Canada, and a report by the Chicago Mercantile Exchange. We have assessed the allegations and supporting evidence

regarding material injury and causation and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Initiation Checklist*).

#### *Initiation Standard for Cost Investigations*

Pursuant to section 773(b) of the Act, the petitioner submitted information providing reasonable grounds to believe or suspect that sales made by Canadian producers/exporters in the home market were at prices below the cost of production ("COP") and, accordingly, requested that the Department initiate a country-wide sales-below-COP investigation in connection with this investigation. The Statement of Administrative Action ("SAA"), submitted to the Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP needs not be specific to individual exporters or producers. *See SAA*, H.R. Doc. No. 103-316 at 833 (1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that section 773(b)(2)(A) of the Act requires that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.* We have analyzed the country-specific allegation as described below (*see infra*, "Normal Value").

#### *Export Price and Normal Value*

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation. A more detailed description of these allegations is provided in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, as appropriate.

#### *Export Price*

The petitioners calculated export price ("EP"), based on January through

December 2003 average unit values ("AUVs") from import data contained on the U.S. ITC's Dataweb, for comparison to NV. The petitioners calculated two separate EPs, one based on imports of live swine weighing less than 50 kilograms ("feeder") and the other based on imports of live swine weighing 50 kilograms or more ("finish"). We note that the petitioners calculated EP for finish animals based on imports of live swine classifiable only under HTSUS 0103.92.0010. HTSUS 0103.92.0090 also includes imports of live swine weighing 50 kilograms or more. Therefore, we revised EP for finish animals to also include imports of live swine classifiable under HTSUS 0103.92.0090. The petitioners made no deductions to EP. For further discussion, *see the Initiation Checklist*.

#### *Normal Value*

##### *Price-to-Price Comparisons*

To determine NV based on home market prices, the petitioners used monthly pricing information from "Swine Enterprise Budgets," published by the Government of Ontario's Ministry of Agriculture and Food, for the period January through December 2003. The petitioners took an average of the farrow-to-feeder and an average of the finish prices listed in this source to compare to the two calculated EPs, as described above (*see supra*, "Export Price"). As with EP, the petitioners made no deductions to NV. For further discussion, *see the Initiation Checklist*.

We made one minor adjustment to the petitioners' calculations. The petitioners used the incorrect farrow-to-feeder unit prices for October, November, and December 2003 in their calculation of the NV average price for the period. Accordingly, we revised the farrow-to-feeder NV unit prices for October, November, and December 2003 and recalculated the NV average price for the period. For further discussion, *see the Initiation Checklist*.

Based on the price-to-price comparisons described above, the margins in the petition, as adjusted by the Department, range from 0.00 to 18.87 percent.

##### *EP-to-CV Comparisons*

The petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of live swine from Canada were made at prices below the fully absorbed COP in the home market, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation of such sales.

Pursuant to section 773(b)(3) of the Act, the COP consists of cost of manufacture plus amounts for selling, general, and administrative expenses and packing costs. The petitioners calculated the COP based on the same publicly available data as the NV price calculation, "Swine Enterprise Budgets," published by the Government of Ontario's Ministry of Agriculture and Food. The "Swine Enterprise Budgets" provides estimates for the COP for a swine enterprise for the year 2003. Because the provincial government is the source for the information, we found this information reasonable for use in the COP calculation. We relied on the COP calculations submitted by the petitioners except as follows. Petitioners in their calculations used the cost of "finished pig" as shown in the "Swine Enterprise Budgets" based on the cost of a finishing barn which purchases feeder pigs rather than raising pigs from farrow to finish. We revised the petitioners' calculation of the COP for "finished pig" by substituting the COP of "farrow-to finish pig", also shown in the "Swine Enterprise Budgets," which more accurately reflects the total cost of producing a finished pig.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product in the home market were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation for the Canadian home market.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners also based NV for sales in the home market on CV. The petitioners calculated CV starting with the same COP figure used to compute home market costs. Consistent with section 773(e)(2) of the Act, the petitioners also included in CV an amount for profit. For profit, the petitioners state that they were unable to obtain financial statements from any Canadian swine farming operation. As a result, they based CV profit on a company in a related field of production, pork processing. However, we revised the petitioners' CV profit calculation. Instead of basing CV profit on a pork processor, we based our profit calculation on the "Swine Enterprise Budgets" because it represents the profit for the "same general category of products" as the merchandise listed in the scope of this initiation, consistent with Section 773(e)(2)(B) of the Act. For

further discussion, see the *Initiation Checklist*.

Based upon the comparison of EP to CV, after adjustments by the Department, the petitioners calculated estimated dumping margins ranging from 13.22 to 66.48 percent.

#### *Fair Value Comparisons*

Based on the data provided by the petitioners, there is reason to believe that imports of live swine from Canada are being, or are likely to be, sold at less than fair value.

#### *Initiation of Antidumping Investigation*

Based upon our examination of the petition on live swine from Canada, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping investigation to determine whether imports of live swine from Canada are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 773(c)(1) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### *Distribution of Copies of the Petition*

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Canada. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2) (2004).

#### *International Trade Commission Notification*

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

#### *Preliminary Determination by the ITC*

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of live swine from Canada are causing material injury, or threatening to cause material injury, to a U.S. industry.

See section 733(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 7, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-8478 Filed 4-13-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **The Manufacturing Council: Establishment of The Manufacturing Council**

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of establishment.

**SUMMARY:** The Department of Commerce, having determined that it is in the public interest in connection with the performance of duties imposed on the Department by law, and with the concurrence of the General Services Administration, announces establishment of The Manufacturing Council. This advisory committee will provide oversight and advice regarding implementation of the "President's Manufacturing Initiative," announced January 16, 2004.

**FOR FURTHER INFORMATION CONTACT:** J. Marc Chittum, Room 2015B, Washington, DC, 20230 (Phone: 202-482-1124).

Dated: April 6, 2004.

**J. Marc Chittum,**

*Designated Federal Officer, Office of Advisory Committees.*

[FR Doc. 04-8415 Filed 4-13-04; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-851]

#### **Notice of Initiation of Countervailing Duty Investigation: Live Swine From Canada**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Initiation of countervailing duty investigation.

**SUMMARY:** The Department of Commerce is initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of live swine from Canada receive countervailable subsidies.

**EFFECTIVE DATE:** April 14, 2004.