Introduction

The U.S. cattle industry has not been successful in using U.S. antidumping provisions to protect the domestic industry from imports. In November of 1998 the Ranchers-Cattlemen Action Legal Foundation filed an antidumping petition with the U.S. government claiming that Canadian and Mexican cattle producers were dumping cattle in the U.S. market, and these imports were causing injury to the domestic industry. Two months later the International Trade Commission (ITC), the agency charged with determining whether imports are causing injury, made a preliminary determination that imports from Mexico were not causing injury, thus terminating the antidumping investigation immediately. In contrast, preliminary dumping duties were imposed on imports of cattle from Canada until the ITC made a negative final determination on October 12, 1999 that imports from Canada were also not causing injury to the domestic industry.

In contrast, one country has used similar antidumping statutes to retard U.S. beef exports. On June 30, 1998, a group of Mexican cattle producers requested that an antidumping investigation be initiated because U.S. producers were dumping both live cattle and beef on the Mexican market, to the detriment of the Mexican industry. The Mexican government initiated an official investigation on October 21, 1998, virtually the same time that U.S. producers were targeting the Mexican cattle industry with its antidumping petition. Mexico’s Secretariat of Commerce and Industrial Development (SECOFI), the agency charged with investigating antidumping complaints, determined that dumped U.S. imports of certain beef products were causing injury to the domestic industry; as a result, U.S. imports of beef faced in some cases prohibitive Mexican import duties beginning in August 1999. The United States challenged the results of the investigation at both the World Trade Organization and under the North American Free Trade Agreement (NAFTA) dispute settlement process. Despite a March 2004 ruling by a NAFTA dispute settlement panel that Mexico improperly imposed antidumping duties, antidumping duties remain on many U.S. beef exports to Mexico.

Background: The North American Cattle Industry

The United States is the largest producer of beef in the world; the sale of cattle and calves is the largest single segment of the U.S. agriculture industry accounting for almost one-fifth of U.S. farm and ranch cash receipts. The cattle industry accounts for 16 percent of total U.S. gross national product. In January of 2003, the U.S. had an inventory of over 96.1 million head of cattle; 35.4 million head of cattle were slaughtered for beef.

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1 The petition was identical to one filed by the group on October 1, 1998 that was temporarily withdrawn on November 10. The U.S. cattle industry also filed a countervailing duty petition at this time claiming that subsidized imports from Canada were causing injury to the domestic industry. This case study, however, focuses solely on the antidumping portion of the investigation.

2 SECOFI made its preliminary determination on August 2, 1999 and a final determination on April 27, 2000.
production in 2003. Although beef cattle are produced in all 50 states, the leading cattle producers in the country were Texas, Kansas and Nebraska which accounted for 27 percent of the total U.S. cattle herd. In total there were 1.05 million independently owned farms and ranches producing beef cattle in 2002.

The production of cattle is highly segmented, although many farmers and ranchers retain ownership of the cattle through many of the stages described below.\textsuperscript{3} Production of cattle for beef starts with the beef cow, which is retained for breeding and nursing for her entire fertile life of between eight and ten years. Bulls are turned in with the cows for fertilization—at this time approximately 80 to 90 percent of the cow herd is successfully bred. The cow then gives birth after nine months to a single calf; most calves are born in the spring and sold in the fall. The average calf weighs between 80 and 85 pounds at birth and lives on a diet of grass and its mother’s milk for six to eight months at which time the calf is weaned.\textsuperscript{4} At this point the calf, which weighs between 500 and 550 pounds and is known as a stocker, may either be sold to a feedlot directly if it is large enough or continue to feed on grass until it weighs approximately 800 pounds, at which time it is then sold to a feedlot. At the feedlot, cattle are kept in pens and fed grain, by-products, and hay for approximately 110 to 150 days until they weigh approximately 1,250 pounds.\textsuperscript{5} The United States is unique in its feed-lot operations; virtually all other countries rely solely on grazing to produce cattle. However, grain-fed cattle have a unique taste and typically contain more fat than their grass-fed counterparts. The entire production process, from breeding to slaughter, takes approximately 2 to 3 years. Once they reach an appropriate weight, cattle are sold to slaughter houses for packing and cutting into cuts of beef. The meat packing industry is highly concentrated; four packers process over 80 percent of U.S. beef production.

Like many other agricultural commodities, U.S. cattle production and returns fluctuate in cycles. When cattle prices begin to rise ranchers tend to retain more cows and heifers for breeding, thus reducing the number of cattle available for slaughter and further raising cattle prices. This expansionary phase lasts approximately six to seven years. However, eventually all the offspring of these cows and heifers are available for slaughter; this increased supply of cattle available significantly reduces the market price. With lower market prices, ranchers are less willing to retain cows and heifers for breeding purposes, further increasing the supply of cattle for slaughter and reducing prices. This liquidation phase lasts approximately three to four years. This decision to reduce breeding stock will eventually reduce the number of cattle produced, so prices begin to rise once again in the consolidation phase that lasts about one to two years. In total, the cattle cycle lasts approximately 10 to 12 years. Although biological factors certainly play a role in these cycles, other factors that may influence the length and timing of the cycle include weather, grain exports, and government programs.

\textsuperscript{3} Cattle may also be raised for breeding purposes or dairy production. This description, however, focuses solely on the process of raising cattle for beef production.

\textsuperscript{4} Note that some calves are singled out at this point for the veal market and raised entirely on their mother’s milk.

\textsuperscript{5} Beef-cattle ready for slaughter are known as slaughter cattle, while those that will be slaughtered after a period of feeding are known as feeder cattle.
U.S. consumption of beef decreased significantly in the 1980’s, from a high of 95 pounds per person in 1975 to approximately 62 to 65 pounds per person today. Many consumers, looking for lower-fat alternatives to beef, increased chicken consumption at the expense of the demand for beef. Demand for beef also declined in the 1990s due to outbreaks of e. coli bacteria and concern over bovine spongiform encephalopathy (BSE), more commonly known as mad cow disease.

Although U.S. consumers reduced their consumption of beef in the 1980s and 1990s, U.S. exports of beef during this period increased dramatically, as illustrated in Figure [I]. Between 1981 and 1998, export values increased from $1.1 billion to $4.4 billion, representing nine percent of the total value of U.S. beef production. Analysts estimate that between 10 to 12 percent of the value of every steer produced in the United States is due to the added demand from international markets. The United States produced 24.9 percent of the world’s beef supply in the 1990s. Before 2004, the largest markets for U.S. beef included Japan, Mexico, South Korea and Mexico. Exports to Mexico increased nearly 47 percent in 1994, the first year of the North American Free Trade Agreement (NAFTA) which liberalized Mexican trade policies for beef and cattle, and it has remained an important market since that time. Note that U.S. exports fell dramatically in 2004 due to the discovery of BSE in two areas of the country. While Japan and South Korea ceased virtually all imports of U.S. beef, Mexico reopened its

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markets relatively quickly. As a result, Mexico was the leading destination for U.S. beef in 2004. Despite the fact that the United States is a large producer and exporter of beef, the country is actually a net importer of beef products. The United States imports large-quantities of grass-fed beef from Australia, Canada, and New Zealand that is typically used in the production of ground beef. Imports from Canada have recently been barred to the presence of BSE.

The North American cattle industry is highly integrated, and virtually all U.S. cattle imports are from Canada and Mexico as can be seen in Figure [II]. Traditionally the United States imports beef calves from Northern Mexico that are then raised on U.S. pastures and in U.S. feed lots prior to slaughter. In contrast, Canada has a very similar beef production system to the United States, and U.S. imports of cattle from Canada tend to be animals ready for immediate slaughter. In 2003, however, the United States banned imports of Canadian cattle due to the presence of BSE. Although the United States is a net importer of cattle from Canada and Mexico, it also exports cattle to both countries. Most of these exports are cattle ready for slaughter, although U.S. exports of feeder cattle to Canada have recently increased.

![Figure II](image)

U.S. Imports of Live Cattle

Source: U.S. Census Bureau.

Antidumping and U.S. Imports of Live Cattle

On October 1, 1998, the Ranchers-Cattlemen Action Legal Foundation (Foundation) filed an antidumping petition claiming that Mexican and Canadian producers were exporting live cattle to the United States at less than normal values, thus causing material injury to
the domestic cattle industry.\textsuperscript{7} The Foundation was a non-profit organization designed to strengthen the profitability of the American cattle industry; more than 1,800 individual cattle ranchers contributed financially to the Foundation’s efforts and 7,730 cattle ranchers signed a petition declaring their support for the Foundation’s antidumping petition. Although the government initiated an investigation soon after the petition was filed, the Foundation withdrew their initial petition on November 10, 1998 for unpublished reasons. On November 12, the Foundation re-filed their antidumping petition which resulted in the investigation described below.

As can be seen in Figure [II], U.S. imports of cattle from Canada and Mexico increased 4.6 percent between 1996 and 1997 to 2.0 million head before decreasing 2.4 percent in 1998. While the average unit import price of cattle from Canada increased 10.9 percent between 1996 and 1998, the average unit price of cattle from Mexico decreased 5 percent between 1996 and 1997 before increasing 17 percent between 1997 and 1998, as illustrated in Figure [III]. In 1997, Canada held a 3.7 percent share compared to Mexico’s 1.2 percent share of U.S. cattle market. In 1998, U.S. cattle and beef prices declined, in part due to record cattle weights at slaughter and near record beef production as well record supplies of pork and poultry and stagnating U.S. beef consumption. U.S. exports of beef also decreased during this time period due to financial problems in Asia and Russia. The ITC noted in the antidumping investigation that both the U.S. and Canadian cattle industries were in the liquidation phase of the cattle cycle in 1997.

\textbf{Figure III}

\textbf{U.S. Imports of Cattle}

\textbf{Average Unit Import Price}

\textbf{Source: U.S. Census Bureau.}

\textsuperscript{7} The petition specifically excluded dairy cows and breeding cattle from the investigation.
On January 19, 1999, the ITC made a preliminary determination that while there was some evidence that imports of cattle from Canada may be causing material injury to the domestic industry, there was no indication that imports from Mexico were either causing or threatening to cause injury to U.S. cattle producers. Under U.S. antidumping law, the ITC is required to cumulate the impact of imports from all countries under investigation on the U.S. industry when making their determination unless products from the countries under investigation do not compete with one another. In this particular investigation, the ITC determined that because virtually all Canadian imports were in the slaughter stage while those from Mexico were in the calf stage that imports from the two countries did not need to be cumulated in making the injury determination. Once Mexican imports were taken under consideration on their own, the ITC found that the volume and market share of U.S. cattle imports from Mexico was insignificant between 1995 and 1997, thus these imports could not have depressed U.S. cattle prices or weakened the U.S. cattle industry. The ITC decision terminated the antidumping investigation against Mexico without the imposition of antidumping duties.

However, the ITC decision did allow the antidumping investigation against Canada to move forward. On July 8, 1999, the DOC released their preliminary finding that imports of live cattle from Canada were being sold at less than normal value in the United States, thus paving the way for the collection of antidumping duties. The dumping duties were revised slightly in the DOC final determination, which was released on October 21, 1999. Firm-specific dumping duties, which are presented in Table [1], ranged from nothing to 15.69 percent.

In order to calculate the dumping margin, the DOC calculated the difference between the average export price and the normal value for individual products and producers over the period of investigation. Because of the size of the Canadian industry, the DOC chose to investigate only the six largest Canadian exporters of live cattle. Under U.S. antidumping law, normal value is typically defined as the price set by the producer under investigation in their domestic, in this case Canadian, market. However, the DOC excludes any prices set below the producer’s average cost of production in the calculation of normal value as these sales are made outside the “normal course of trade.” If more than 20 percent of the producer’s sales are made below their average cost of production then the DOC calculates the normal value using a “constructed value” based on the producer’s average cost of production. In this investigation, the DOC primarily defined the normal value as the price set by the producer’s in the Canadian market, although when there were

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8 Two commissioners dissented from the majority opinion; one believed there was reasonable evidence that imports from both Mexico and Canada were causing material injury to the domestic industry, the second rejected the opinion that there was evidence that imports from Canada were causing material injury to the domestic industry.

9 The period of investigation for this case was October 1, 1997 through September 30, 1998.

10 The constructed value also builds in administrative and selling expenses as well as a reasonable profit margin.
insufficient sales of a particular product above the producer’s average cost the production
the DOC relied on the constructed value to define normal value.\(^{11}\)

### Table 1

<table>
<thead>
<tr>
<th>Firm</th>
<th>Antidumping Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cor Van Raay</td>
<td>4.53</td>
</tr>
<tr>
<td>Groenenboom</td>
<td>3.86</td>
</tr>
<tr>
<td>JGL Group</td>
<td>5.10</td>
</tr>
<tr>
<td>Pound-Maker</td>
<td>0.00</td>
</tr>
<tr>
<td>Riverside/Grandview</td>
<td>5.34</td>
</tr>
<tr>
<td>Schaus</td>
<td>15.69</td>
</tr>
<tr>
<td>All Others</td>
<td>5.63</td>
</tr>
</tbody>
</table>

On October 12, 1999, the ITC made its final determination that imports of live cattle from Canada were not causing material injury, nor were they threatening to cause material injury, to the U.S. cattle industry.\(^{12}\) In their determination, the ITC noted that imports of live cattle from Mexico were minimal in terms of volume and market share. Moreover, imports actually decreased between 1996 and 1998. The ITC also found no correlation between cattle prices in the United States and the volume of cattle imports from Canada, indicating that the small volume of imports were not depressing the prices received by U.S. cattle ranchers. Moreover, there was no indication that the volume of cattle imports from Canada would significantly increase in the future. With this decision, the antidumping investigation was terminated and all antidumping duties collected after the preliminary DOC determination were refunded.

Since the termination of the antidumping petition, U.S. imports of cattle from Canada increased nearly 60 percent between 2000 and 2002 before plummeting due to U.S. import restrictions associated with the presence of BSE in Canada. U.S. imports of cattle from Mexico fluctuated between 1998 and 2004. However, the U.S. cattle industry seems to have moved from the liquidation phase of the cattle cycle to the expansion phase. U.S. cattle prices grew an average of 6.4 percent between 1999 and 2003, and the cattle inventory and beef production reached the low point in the cycle in 2005.\(^{13}\)

**Antidumping and U.S. Beef Exports to Mexico**

On June 30, 1998, a group of Mexican cattle ranchers and beef producers filed an antidumping petition claiming that between June and December of 1997, U.S. imports of live cattle and certain beef products were sold at less than fair value in Mexico, and these

\(^{11}\) Note that the normal value and export prices are adjusted to account for differences in such things as transportation costs or differences in the level of trade.

\(^{12}\) One commissioner dissented from this few, voting that imports from Canada were causing material injury to the U.S. cattle industry.

\(^{13}\) Per pound price for Nebraska Direct slaughter steers from 1,100 to 1,300 pounds.
imports were causing injury to the domestic industry.\textsuperscript{14} On October 21, 1998, SECOFI determined there was sufficient evidence that dumped imports from the United States were causing injury to the domestic cattle industry to initiate a full antidumping investigation.

Prior to the antidumping petition, the Mexican cattle industry had suffered from continuing drought conditions that forced many Mexican cattlemen to liquidate their herds. The 1994 peso devaluation significantly raised the cost of imported feed; as a result many Mexican cattlemen faced significant debt and credit problems. As can be seen in Figure [I], U.S. exports of beef to Mexico increased 74 percent between 1996 and 1998; in 1998, U.S. beef exports to Mexico were valued at $400 million. The average unit price of these exports fell significantly during this time period, from nearly $2.60 per kilogram in 1996 to just $2.23 per kilogram in 1998 as the U.S. entered the liquidation phase of the cattle cycle. These average unit prices are illustrated in Figure [IV]. The United States represented over 95 percent of total Mexican beef imports.

\textbf{Figure IV}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure_iv.png}
\caption{U.S. Beef Exports to Mexico}\label{figure_iv}
\end{figure}

Source: U.S. Census Bureau.

\textsuperscript{14} Petitioners included Confederacion Nacional Ganadera, Asociacion Mexicana de Engordadores de Ganado Bovino, A.C., Union Ganadera Regional del Norte de Veracruz, Unin Ganadera Regional de Tabasco, Carnes Valmo de Sonora, Empacadora de Carnes, Unidad Ganadera, Fapsa y Asociados, Frigorifico y Empacadora de Tabasco, Frigorifico Rastro del Sureste de Veracruz, Frigorifico del Sureste, Ganaderia Integral El Centinela, Ganaderia Integral SK, and Ganaderia Integral Vizur.
The U.S. industry argued during the investigation that difficulties in the Mexican cattle industry were not caused by U.S. imports but rather by a number of economic and climatic conditions. Nevertheless, on August 2, 1999 SECOFI released their preliminary finding that while there was no evidence that dumped imports of U.S. cattle were causing injury to the Mexican cattle industry, there was evidence that unfairly-priced imports of beef from the United States were causing harm. As a result, SECOFI imposed temporary antidumping duties on U.S. beef imports as listed in Table [2] and continued the investigation.

<table>
<thead>
<tr>
<th>Product</th>
<th>U.S. Firm</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ConAgra</td>
</tr>
<tr>
<td>Beef Carcasses</td>
<td>0.00</td>
</tr>
<tr>
<td>Bone-in beef cuts</td>
<td>0.00</td>
</tr>
<tr>
<td>Boneless beef cuts</td>
<td>7.66</td>
</tr>
<tr>
<td>Frozen beef tongue</td>
<td>16.91</td>
</tr>
<tr>
<td>Frozen beef liver</td>
<td>3.02</td>
</tr>
<tr>
<td>Edible beef offals</td>
<td>11.42</td>
</tr>
</tbody>
</table>

The preliminary duties were much higher for beef offals than other products, which resulted in a sharp decrease in U.S. exports of beef offals in August of 1999. Relatively small duties were assigned for the four major U.S. exporters that submitted cost and price data over the course of the investigation. These four companies accounted for 80 percent of U.S. beef exports at the time. Smaller processors and exporters that did not participate in the investigation were assessed much higher duties, ranging from 5.24 to 214.52 percent.

On April 27, 2000, SECOFI released their final determination. SECOFI found that while imports from the United States of beef tongues, livers and other offal were not causing injury to the domestic beef industry, the same could not be said for other beef product imports from the United States. As a result, SECOFI ordered the permanent imposition of antidumping duties, which are listed in Table [3]. The final antidumping order imposed a complex set of antidumping duties on a larger number of U.S. exporters than included in the preliminary investigation; antidumping duties were conditional on the exporter’s source of beef. For example, Murco Foods, Inc. was assessed an antidumping duty of $0.11 per kilogram as long as the bone-in beef was from the firms of Excel, IBP, Sunland or H&H; if Murco shipped beef from any other source to Mexico it would be assessed a duty of $0.80 per kilogram. SECOFI set the all others rate for beef carcass at $0.07 per kilogram; in comparison bone-in beef was assessed a $0.80 per kilogram rate and boneless beef was assessed a $0.63 per kilogram rate. In comparison, the average unit import price for U.S. beef in April of 2000 was $3.08 per kilogram.15 The ruling

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15 This is value of U.S. beef exports to Mexico divided by the quantity for beef carcasses, bone-in cuts and boneless cuts of beef.
also required that the USDA certify that beef exports were no more than 30 days old; beef more than 30 days old were assessed the higher “all others” duty rates.

### Mexican Imports of U.S. Beef and Beef Offals

**Final Antidumping Duties (Dollars per Kilogram)**

<table>
<thead>
<tr>
<th>Product</th>
<th>Firm</th>
<th>Beef Carcass</th>
<th>Bone-In Beef</th>
<th>Boneless Beef</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ConAgra&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.07</td>
<td>0.80</td>
<td>0.63</td>
</tr>
<tr>
<td></td>
<td>Excel Corp.&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>IBP, Inc.&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.00</td>
<td>0.00</td>
<td>0.13</td>
</tr>
<tr>
<td></td>
<td>Sunland Beef Company&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.00</td>
<td>0.25/0.63</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sam Kane Beef Processors Inc.&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.00</td>
<td>0.00</td>
<td>0.15/0.63</td>
</tr>
<tr>
<td></td>
<td>H&amp;H Meat Products Company, Inc.&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0.00</td>
<td>0.11/0.80</td>
<td>0.07/0.63</td>
</tr>
<tr>
<td></td>
<td>Northern Beef Industries, Inc.</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Farmland National Beef Packing&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.03</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Murco Foods, Inc.&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0.11/0.80</td>
<td>0.07</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Packerland Packing Company, Inc.&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.11/0.80</td>
<td>0.07</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Agriwest International Inc.&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0.11/0.80</td>
<td>0.07/0.63</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Almacenes de Tajas, Inc.&lt;sup&gt;1&lt;/sup&gt;</td>
<td>0.16/0.80</td>
<td>0.12/0.63</td>
<td></td>
</tr>
<tr>
<td></td>
<td>San Angelo Packing Company</td>
<td>0.07</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CKE Restaurants, Inc.&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0.07/0.63</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>All Others</td>
<td>0.07</td>
<td>0.80</td>
<td>0.63</td>
</tr>
</tbody>
</table>

<sup>1</sup> These firms cooperated in the antidumping investigation, and thus were assigned firm-specific antidumping duties.

<sup>2</sup> Although these firms cooperated in the antidumping investigation, time did not permit firm-specific antidumping duties. Firms were assigned the weighted average antidumping duties.

SECOFI used one of three methods to calculate the firm-specific antidumping duties listed in Table [3]. Firm-specific duties were calculated for eight U.S. exporters that fully cooperated in the investigation. Five U.S. companies cooperated but time did not permit SECOFI to calculate firm-specific margins; these companies were assessed a weighted average margin of those firms investigated. Firms that did not cooperate in the investigation were assessed the highest duty of those firms that cooperated in the investigation. The structure of the antidumping duties favored products that did not compete with Mexican products and products for which there is high demand. For example, USDA certified Angus Beef was exempted from all antidumping duties, and boneless beef cuts were assessed a lower duty than bone-in cuts.

In July of 2000, a NAFTA dispute settlement panel was formed to review the antidumping determination regarding Mexican imports of beef from the United States at the request of U.S. beef producers. U.S. producers made a number of allegations to the dispute settlement panel, including that SECOFI lacked the authority to make antidumping determinations. More importantly, U.S. producers argued that the imposition of higher dumping margins on beef that does not prove it is less than 30 days old was unlawful under antidumping regulations.

According to U.S. firms, SECOFI did not take all factors under consideration when determining whether U.S. imports were causing material injury to the Mexican beef industry. Specifically SECOFI is supposed to consider the rate of increase of imports, the excess capacity of the foreign producers, inventories of the products under investigation,
and whether increased imports would have repercussions on Mexican prices; however, U.S. producers claimed that SECOFI improperly considered capacity and incorrectly calculated the increase in dumped imports. Moreover, SECOFI failed to prove that imports were the cause of material injury rather than other potential factors. Other complaints raised by U.S. producers before the panel included the fact that SECOFI imposed two different antidumping duties on the same firm as well as the lengthy period of time between the imposition of preliminary and final antidumping margins.

Because of delays in selecting panelists, the panel did not begin reviewing the case until March 30, 2001. U.S. beef producers became frustrated at the lack of action on the case; the panel delayed the issuance of their final ruling on June 10, 2003, August 29, 2003 and October 31, 2003 without giving a reason. Meanwhile, on June 16, 2003 the United States filed a dispute settlement case with the World Trade Organization (WTO) regarding Mexico’s imposition of antidumping duties on U.S. imports of rice and beef. The two countries held consultations between July 31 and August 1. The U.S. WTO complaint included many of the same issues raised in the submission to the NAFTA dispute settlement panel, in addition to some broader issues. For example, the U.S. claimed that Mexico failed to provide a detailed account of their findings and conclusions in their injury determination and failed to conduct objective examinations of all relevant data. Although the two countries failed to resolve their differences, the WTO dispute settlement panel that was formed focused solely on the rice antidumping decision rather than on the beef decision despite the fact that many of the issues raised in the case were relevant in both decisions.

Finally, on March 15, 2004 a NAFTA dispute settlement panel ruled that SECOFI had not sufficiently demonstrated that beef imports from the United States were damaging the Mexican beef industry to warrant the imposition of antidumping duties. The panel ordered the Mexican government to reconsider the antidumping order on U.S. beef imports, agreeing with domestic producers that SECOFI violated antidumping regulations in a number of ways. Specifically, the panel noted that antidumping orders should not be used to introduce new import classifications, imposing different regulations depending on whether beef is more or less than 30 days old. It ordered that the Mexican government recalculate dumping margins to take all submitted information into consideration. Most importantly, the panel ordered the Mexican government to prove that U.S. dumped imports were threatening to cause material injury after fully taking into account the excess capacity of U.S. producers and the rate of increase in dumped imports, not all imports from the United States. Moreover, the panel ruled that the Mexican government did not comply with regulations governing the causality analysis in their initial investigation. The panel gave Mexico three months to comply with their ruling.

In response to the NAFTA panel ruling, Mexico released a revised antidumping determination on October 20, 2004. Mexico’s Secretariat of Economy (SE), the successor to SECOFI, eliminated all antidumping duties on beef carcasses. Although the ruling maintained the antidumping duties on boneless and bone-in beef cuts, it did eliminate the ruling that the USDA certify that U.S. meat was no more than 30 days old. The NAFTA dispute settlement panel has not reviewed the new determination to ensure
that it is compliant with the panel’s original finding. Meanwhile, the SE launched a five-year “sunset” review of the antidumping duties on April 26, 2005 as required under the WTO. Results from the review are still pending.

As illustrated in Figure [I], U.S. exports of beef to Mexico continued to increase after 1999 despite the imposition of antidumping duties; U.S. exports of beef to Mexico increased approximately 8 percent per year in terms of quantity between 1999 and 2000 before falling in 2003 and 2004 due to Mexican bans on U.S. beef associated with the presence of BSE. However, these increases are far from the burgeoning market of the mid 1990s—recall that U.S. beef exports to Mexico increased nearly 50 percent between 1996 and 1997 and an additional 25 percent between 1997 and 1998. As noted above, because Mexico was one of the first countries to lift its ban on U.S. beef exports following the BSE scare, it is projected to be the leading destination of U.S. beef in 2005 despite the antidumping duties.

References


International Trade Administration, Department of Commerce, “Notice of Preliminary Determination of Sales at Less than Fair Value: Live Cattle from Canada,” Federal Register 64 (130): pp. 36847-36853,

