EPILOGUE

The ITC suits were made up of three parts: a dumping suit, request for countervailing duty vs. Canada to offset beef industry subsidies, and a dumping suit against Mexico. The dumping suit against Mexico was not deemed sufficient to pursue by the ITC. Canadian subsidies were ruled *de minimis* by the ITC and therefore no offsetting action was taken or deemed necessary. The ITC ruled that there was reasonable indication that imports of live cattle had materially injured the U.S. industry and that duties would be imposed.

CANADIAN PORK COUNCIL

Martin Rice

Pursuing a trade dispute offers industry associations a potentially high-return, low-risk means of demonstrating their own worth to their membership. If the action is successful, the association can point to this as evidence of its usefulness to members. If unsuccessful, it can point to the inadequacy of the country's trade legislation or the ineptitude of domestic bureaucrats or foreign review bodies. In fact, there is a much greater risk for the industry association to not pursue a trade dispute action. Rank-and-file members often are not responsive to leaders' suggestions that they need to respect trade rules, or to explanations of why imports are actually being fairly traded. Lack of action by associations can be interpreted as weakness, and elected leaders can be voted out when they come up for re-election.

Canadian Experience

The Canadian pork industry has been involved in many different trade disputes. The first major one was a U.S. countervailing duty investigation in 1985, against Canadian hogs and pork. Within the past ten years we have experienced another U.S. pork investigation as well as countervail proceedings initiated by New Zealand and Australia. The latter case also included dumping charges. We were among the first to have utilized the binational panel review provisions introduced in the Canada-United States Trade Agreement, later NAFTA, and have been party to several panels since. When one adds in a safeguard investigation recently completed by Australia, plus a variety of disputes over such technical issues as disease, labelling and veterinary products, it can be said with some authority that the Canadian hog and pork sectors have experienced trade tensions and actions.

Trade disputes almost always occur during periods of low prices, when the mood of industry in both the importing and exporting countries is best described as irritated and intolerant. This generally is the worst time to try to deal with a trade dispute through dialogue. Under these conditions associations are least able to

suggest and promote solutions because members attitudes become inflexible; the pressures they bring on their representatives are likely to be aggressive, even militant, such as taking action to prevent product crossing borders. Also, misinformation may become involved. For example, rumours and anecdotal information about some government program in the exporting country can become widely publicized 'proof' of unfair trade conditions.

Producers in the exporting country may be no less angry. Associations may be urged to examine countermeasure such as looking for evidence of subsidies or dumping by the other country, hoping to mute the noise level that emanates from competitors, to show that the playing field is more level than portrayed. This strategy is unlikely to be successful.

Experience indicates that elected politicians often wade in to the fray, particularly if their constituents are well represented among the complainants.

Dispute Resolution

Of all of the trade dispute types identified above, the countervail/dumping process has certain advantages. The exercise is more transparent, the rules are more clearly established, and there is much more opportunity for the industry of the exporting country to have its point of view heard and taken into account in decisions taken by the authorities to whom the complainants have taken their case. Formal appeal mechanisms are also available.

Technical measures can be much harder to deal with, and take far longer to resolve. We have found this to be particularly the case where health - plant, animal or human - is involved. It is extremely difficult for the industry in the (potentially) importing country to be convinced to accept any risk whatsoever of a disease being transmitted while also permitting additional import competition. This represents a lose-lose situation from the importers point of view. Ultimately, governments have little choice but to take steps which are domestically unpopular but which satisfy their international trade obligations to remove barriers which cannot be scientifically justified.

Formal dispute settlement processes now exist to deal with sanitary and phytosanitary issues. However, the results have been much less apparent because a 'science-based' process can become an exercise in selective interpretation, debating around and arguing for what is the politically desired conclusion. Decisions may not even be implemented as is the case with the beef hormone dispute between Canada and the United States with the European Union.

Communication

Although circumstances may work against resolution, there still can be substantial benefits, and disputes can sometimes be avoided entirely, by having communication channels opened among industry groups in the two countries. Such dialogue should, wherever possible, be initiated in times of better economic

conditions. If this is not possible, dialogue should occur in as private a setting as possible to avoid public gaze and unreasonable expectations for certain outcomes. Industry groups need to learn the political landscape and pressure points in the other country.

Joint communiqués following such sessions can be helpful, particularly as they encourage the two groups to agree on what has been discussed, and what follow-up will occur. Different interpretations by the two parties of what was said and agreed can be a major problem, and may more than offset any gains achieved by having the get together in the first place.

Expectations from bilateral industry sessions should be kept moderate, as the results from any single meeting are generally fairly modest. The cumulative impact after several such meetings, however, can be very substantial even if less apparent. Build-up of tensions can be identified, and remedial actions taken under less public scrutiny and with some industry political pressure, prior to an issue becoming a major bilateral dispute.

The Role Of Trade Officials

Even when there has been a solid and friendly bilateral industry relationship established, that may not be adequate when the 'grass roots' of the importing country trade association become angry. Cases in point include the U.S. national beef producer organization needing to respond to very localized hostility to beef cattle imports from Canada. Perceptions about imports can change, from being a means of assisting local plants running at efficient capacity throughput levels and even meeting export targets, to becoming unwelcome intruders in their domestic hog market. Embassy personnel can play a critical role in alerting the industry back home of rising tensions among producers in the importing country, and even facilitate meetings. This is particularly the case where the two countries are on opposite sides of the globe.

International bodies should be examined for their potential for assisting in dealing with bilateral disputes, in providing third party advice on technical issues for example. Codex Alimentarius and the Organisation internationale des épizooties (OIE) are ones which come to mind. The use of binational and even multinational panels to review disputes should be considered countervail and dumping cases, which could shield the process a bit more from political pressures within the importing country where currently the investigation is solely conducted.

Conclusion

The Canadian Pork Council has become alarmed at the growing use of cost of production as a benchmark in determining the existence of dumping. We view this as a de facto safeguard mechanism, one without any of the disciplines which exist within formal WTO safeguard provisions. The commitment to trade by both importers and exporters must exist in both good and bad times, and production adjustments to depressed world prices must be shared by all.

In the end, one needs to realize that trade remains primarily a private affair between buyers and sellers, and business associations can only go so far in responding to bilateral trade tensions. However, if dialogue and liaison are established before the tensions arise, the efforts of industry associations to respond in some manner, however modest that may be, can help avert one side having to take protectionist action.

CARGILL LIMITED

Jamie Dolynchuk

The Value Of Information In Reducing Trade Tension

How to address trade tension between countries is an issue government and industry leaders alike have struggled with for several years. This is particularly true this past year as many countries, including our own, stagger on the boundary between enhanced economic integration and increased domestic protection. My comments address the way multinational companies, such as Cargill, are attempting to deal with trade tension in an ever increasingly integrated food system.

For those that may not be familiar with our company, in the broadest sense Cargill is an international marketer, processor and distributor of agricultural, food, financial and industrial products. We employ over 80,000 people around the world in about 65 countries. My particular responsibilities include the management of government relations within Canada. My comments are directed toward offering insight into how the private sector views, and is reacting to, trade tension among our respective countries. Information, as conference coordinators have correctly identified, is a necessary element of handling trade tension.

I will leave the area of industry associations and transnational dialogue to other discussants as they represent these very groups and are therefore on the front lines when it comes to drawing interest groups together. The term - front lines - is used in the literal sense as I suspect many of them may compare the task of coordinating trade groups with varying interests (and even the task of coordinating varying interests within their own associations) to the task of going to battle.

The question for me then becomes....what is the role for the individual company in all of this? Our role, or more appropriately our responsibility, may be broken down into two broad categories, both of which are designed to reduce trade tension:

1. day-to-day commercial reactions, and
2. long-term macroeconomic reactions.