

reduce infestations of noxious and undesirable weeds; prescribed burning to reduce fuel loading, regenerate aspen stands to maintain tree species diversity, and overall vegetative diversity.

Decisions to be Made: The Medicine Bow-Routt Supervisor will need to make an informed decision about the selection of one alternative among several. The issues and alternatives developed by the Forest Service interdisciplinary team members and public commentors must be analyzed and displayed clearly. From the project record alone, the Forest Supervisor and others who review the decision, must be able to fully understand the consequences of implementing the selected alternative.

Preliminary Issues: Roads constructed in support of the proposed timber sale(s) will reduce the current roadless character by approximately 2,600 acres within the Morrison Creek Geographic Area. The Morrison Creek Roadless Area (8,314 acres) will be reduced by approximately 700 acres to 7,614 acres. The Bushy Creek Roadless Area (11,443 acres) will be reduced by approximately 1,900 acres to 9,543 acres.

Options to road construction in these roadless areas include aerial skidding through the use of cable logging systems, helicopters and/or ground based forwarders. Acres treated using either of these methods could change based on the feasibility of each method.

This project is exempt from the proposed interim rule for roadless areas of the USDA Forest Service draft Forest Road Policy. The draft Forest Road Policy states "where forest plan revisions are complete but not yet through the appeals process, the issue of roadless area management will be addressed through the forest planning and appeals process." The Record of Decision for the Routt National Forest Land and Resource Management Plan was signed on February 17, 1998.

Other Issues: Effects of timber harvest on wildlife habitat; effects of mountain pine beetle (MPB) on lodgepole pine stands moderately to highly susceptible to infestation; effects of drastic increase in lodgepole pine mortality as a result of MPB attack; public safety and health as a result of increased fuel loading due to MPB caused mortality of lodgepole pine; effects of increased mortality of englemann spruce due to increased spruce bark beetle activity in stands of moderate to high risk to attack; conversion of the aspen cover type to mixed conifer forests due to succession and lack of natural disturbances such as fire; effects of timber harvest and road construction on watershed condition,

including water quality and soil productivity.

Scope of the Analysis: This environmental analysis shall consider the environmental consequences of the proposed action, as well as alternatives reasonably implemented, while meeting the purpose and need for the action.

Date: November 9, 1998.

Jerry E. Schmidt,

Forest Supervisor.

[FR Doc. 98-34459 Filed 12-29-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-833, A-201-824]

Initiation of Antidumping Duty Investigations: Live Cattle from Canada and Mexico

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

EFFECTIVE DATE: December 30, 1998.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, at (202) 482-5288, or Gabriel Adler, at (202) 482-1442; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR Part 351 (April 1998).

The Petitions

On November 12, 1998, the Department received petitions filed in proper form by the Ranchers-Cattlemen Action Legal Foundation (R-Calf, referred to hereafter as "the petitioner").

The petitioner had filed similar petitions on October 1, 1998 (hereafter referred to as the "original petitions"), but withdrew them on November 10, 1998. In refiling the petitions on November 12, 1998, the petitioner requested that the Department incorporate into the record all submissions made in connection with the original petitions. In addition to the

original petitions, the documents incorporated by reference include the following: (1) a letter of October 2, 1998, clarifying the scope of the petitions; (2) letters dated October 15, 16, and 21, 1998, responding to the Department's requests for clarification of calculation methodologies in the petitions; and (3) letters dated October 14 and 22, and November 2, 6, 9, and 10, 1998, providing additional information with respect to industry support. The Department also incorporated into the record all submissions made by other interested parties in connection with the original petitions.¹

After refiling the petitions, the petitioner made several additional filings with respect to industry support. The Department also received additional submissions on the issue of industry support from other interested parties.

The petitioner alleges that imports of live cattle from Canada and Mexico 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, a U.S. industry.

The Department finds that the petitioner has standing to file the petitions because it is an interested party as defined in section 771(9)(E) of the Act. Further, the Department's efforts with respect to its determination of industry support indicate that the petitions in fact have sufficient industry support (see discussion below).

Scope of Investigations

For purposes of these investigations, the product covered is all live cattle except imports of dairy cows for the production of milk for human consumption and purebred cattle specially imported for breeding purposes and other cattle specially imported for breeding purposes.

The merchandise subject to these investigations is classifiable as statistical reporting numbers under 0102.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS), with the exception of 0102.90.40.72 and 0102.90.40.74. Although the HTSUS subheadings are provided for

¹ The Government of Mexico, the Government of Canada and the Government of Quebec raised issue with the refiling of these petitions. We note, however, that there is no statutory bar to refiling a petition which has been withdrawn. While the Department possesses the inherent authority to prevent a party from improperly manipulating its procedures, we have no reason to exercise that discretion in this case, particularly given the highly fragmented nature of the live cattle industry and the resulting complexity for this industry in expressing views on these petitions.

convenience and customs purposes, the written description of the merchandise is dispositive.

During our review of the petitions, we discussed with the petitioner whether the proposed scope was an accurate reflection of the product for which the domestic industry is seeking relief. We noted to the petitioner that the scope in the petitions appeared to exclude all purebred cattle. The petitioner subsequently notified the Department that only purebred cattle intended for breeding purposes should be excluded from the scope of the investigations. We revised the scope accordingly. The petitioner has since indicated that this revised scope accurately describes the product for which the domestic industry is seeking relief.

Consistent with the preamble to the new regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties, Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997). This period of scope consideration is intended to provide the Department the opportunity to amend the scope of the investigation, if warranted, such that the International Trade Commission (ITC) may be able to take the refined scope into account in defining the domestic like product for injury purposes. In addition, early amendment can partially alleviate the reporting burden on respondents and avoid suspension of liquidation and posting of securities on products of no interest to the petitioner. The Department encourages all interested parties to submit such comments within twenty days after the date of publication of this notice in the **Federal Register**.

Determination of Industry Support for the Petitions

Section 732(c)(4)(A) of the Act requires that the Department determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets these minimum requirements 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. Under section 732(c)(4)(D) of the Act, if the petitioner(s) account for more than 50 percent of the total production of the domestic like product, the Department is not required to poll the industry to

determine the extent of industry support.

To determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The 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. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, 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 like product, such differences do not render the decision of either agency contrary to the law.²

Section 771(10) of the Act defines 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 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 petitions define the single domestic like product as live cattle (*Bos taurus* and *Bos indicus*) (including calves, stocker/yearlings, feeder steers and heifers, slaughter steers and heifers, and cull cows and bulls) which are raised and fed for the purpose of the production of beef. The domestic like product does not include purebred cattle that are used for breeding, unless and until these cattle are culled. The domestic like product also does not include dairy cows used to produce milk for human consumption.

No party has commented on the petitions' definition of domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. Therefore, we have found no basis on which to reject the petitioner's representations that all cattle intended for slaughter should be included in the domestic like product. The domestic like product is functionally the same as the scope of the investigations, with the clarification that culled cattle are to be

included. The Department has, therefore, adopted the like product definition set forth in the petitions, as clarified in the petitioner's letter of October 2, 1998.

With respect to the above-cited industry support requirements, our initial review of the production data in the petitions indicated that they did not account for more than 50 percent of the total production of the domestic like product. Therefore, in accordance with section 732(c)(4)(D) of the Act, we determined that it was necessary to poll or otherwise determine support for the petitions by the live cattle industry. Pursuant to section 732(c)(1)(B) of the Act, we extended the deadline for initiations until December 22, 1998, in order to allow sufficient time for this determination.

Due to, among other factors, the extraordinarily large number of individual producers of live cattle in the United States, as well as the lack of a comprehensive listing of such producers, we determined that it would not be feasible to conduct a traditional sampling of producers. We also determined that it would not be feasible to poll all individual producers. Instead, we examined more than 150 cattle and cattle-related associations and requested that they report the views of their cattle-producing members. Where individual producers contacted the Department directly to express their views, we included those views in our calculations after making adjustments to account for overlap of production between associations and their members. For a full description of the Department's industry support methodology, see memorandum from Susan Kuhbach and Gary Taverman to Richard W. Moreland, "Live Cattle from Canada and Mexico: Determination of Industry Support" (December 22, 1998).

The Department found that the domestic producers or workers supporting the petitions account for both (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. Therefore, we find that there is sufficient industry support for the petitions.

Export Price and Normal Value

The petitioner calculated the export price and normal value as follows:

I. Canada

To determine the export price, the petitioner calculated a weighted-average price of imported Canadian cattle based

² See *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

on existing U.S. Census import data covering the period October 1997 through July 1998. These pricing data are on a free along side (FAS) basis (*i.e.*, the declared value of the cattle before loading onto freight carriers in Canada).

With respect to normal value, the petitioner obtained home market sales data from weekly Canadian price reports published by the USDA Agricultural Marketing Service. The petitioner alleged that these home market prices were below the cost of production (*i.e.*, the sum of the cost of manufacturing (COM), selling, general and administrative (SG&A) expenses, and packing costs), and therefore they could not be used as the basis for normal value. Instead, the petitioner based normal value on constructed value (CV). The petitioner calculated the CV as the sum of the COM, SG&A, packing, and profit. To calculate profit, the petitioner relied on 1996 average profits for a variety of non-cattle livestock products, as compiled by Statistics Canada.

Our review of the petitioner's calculation of export price did not indicate the need to make revisions to that price. With respect to normal value, we first examined the petitioner's cost test methodology. We found that the petitioner had based the cost of production (COP) for four cattle types on actual cost data taken from a report published by CanFax, a division of the Canadian Cattlemen's Association. For these cattle types, we analyzed the sales-below-cost allegation, as explained below. With respect to the other nine cattle types for which sales information was provided, we did not rely on the petitioner's submitted cost data. Since we had actual cost data available for four cattle types, we disregarded the cost data for these nine cattle types and relied on the home market prices set forth in the petition.

We compared the home market sales prices of the four cattle types for which we had reliable cost data to the COP data supplied in the petition for each such cattle type, and found that home market prices in every instance were below the cost of production. This finding constitutes "reasonable grounds to believe or suspect" that sales of these foreign like products were made below their respective COP within the meaning of section 773(b)(2)(A)(i) of the Act. *See Initiation of Cost Investigation*, below.

For these cattle types, we based normal value on CV. Except for a minor correction of exchange rates, we relied on the submitted COM and SG&A data for the four types of cattle in question. We revised the profit calculation to include only the profit on cattle

livestock products as compiled by Statistics Canada.

II. Mexico

To determine the export price, the petitioner calculated a weighted-average price of imported Mexican cattle based on existing U.S. Census import data from June 1997 through July 1998. These pricing data are on a FAS basis, and are specific to the age and sex of the cattle.

With respect to normal value, the petitioner reported price data from three sources: (1) the Mexican government publication "Current Situation and Outlook for Beef Production in Mexico"; (2) an ITC report containing quarterly 1996 prices for live steers in Mexico City and (3) a Mexican web site, the Daily Bulletin from the National Service of Market Information (SNIM), which contained August 19, 1996 prices broken down by region and age of cow. The petitioner claimed, however, that because these home market prices were below the cost of production they could not be used as the basis for normal value. Instead, the petitioner based normal value on CV. The petitioner calculated CV as the sum of the COM, SG&A, packing costs and profit. Except for profit, these figures were based on published USDA information on the costs of U.S. cow-calf operations in 1997. Cow-calf operation costs were considered to be those that most accurately reflected the cost of raising the calves and steers that constitute the majority of Mexican cattle exported to the United States. The petitioner adjusted the U.S. costs for known differences between costs incurred to produce live cattle in the United States and costs for producing the subject merchandise in Mexico. The petitioner was unable to obtain any information regarding the profitability of Mexican ranchers, and thus conservatively assumed profit to be zero.

Our review of the petitioner's calculation of export price did not indicate the need to make revisions to that price. With respect to normal value, we did not use the home market prices included in the petition because we found that these prices were not of products comparable to those used by the petitioner as the basis for export price. Instead, we reviewed the calculation of CV, and accepted the underlying cost data contained in the petition except in the following instances: (1) we eliminated imputed costs for operating capital, other non-land capital and land, because these amounts do not represent actual expenses; (2) we did not accept the inflation adjustment made by the

petitioner, since the petition contained 1997 cost data and 1997-98 prices; (3) we converted U.S. dollars to pesos using the average 1997 exchange rate, as published by the Federal Reserve, and we used the same rate when converting pesos back to dollars for comparison to export prices; and (4) we revised the miscellaneous cost figure shown in the USDA statistics by applying the ratio of U.S. to Mexican feed costs.

Fair Value Comparison

Based on the data provided by the petitioner, as revised by the Department in the manner described above, we find that there is reason to believe that imports of live cattle from Canada and Mexico are being, or are likely to be, sold at less than fair value.

The margin calculations in the petitions, as revised, indicate dumping margins ranging from 6.42 percent to 10.72 percent for live cattle from Canada, and 15.48 to 64.49 percent for live cattle from Mexico.

If it becomes necessary at a later date to consider the petitions as a source of facts available under section 776 of the Act, we may review and, if necessary, further revise the margin calculations in the petitions.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value. The allegations of injury and causation are supported by relevant evidence including USDA data and U.S. Customs import data. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist for Canada and for Mexico*.

Initiation of Antidumping Investigations

We have examined the petitions on live cattle from Canada and Mexico and have found that they meet the requirements of section 732 of the Act, including the requirement concerning allegation of material injury or threat of material injury to the domestic producers of a domestic like product by reason of subject imports allegedly sold at less than fair value. Therefore, we are initiating antidumping duty investigations to determine whether imports of live cattle from Canada and

Mexico are being, or are likely to be, sold in the United States at less than fair value. Our preliminary determinations will be issued by May 11, 1999, unless the deadline for the determinations is extended.

Initiation of Cost Investigation

As explained above, the Department has found that there are "reasonable grounds to believe or suspect" that sales of live cattle from Canada were made below their respective COP within the meaning of section 773(b)(2)(A)(i) of the Act. Therefore, we are initiating a countrywide sales-below-cost investigation with respect to live cattle from Canada.

With respect to the allegation that there were sales of Mexican cattle below cost, we were unable to consider the cost allegation because the cost data provided in the petition were not on the same basis as the home market sales data, and thus could not be meaningfully compared. Therefore, we are not initiating a sales-below-cost investigation with respect to live cattle from Mexico at this time. However, we note that in accordance with the Department's regulations at 19 CFR 351.301(d)(2)(i), the petitioner will have until 20 days after the date on which the Department issues its antidumping questionnaire to file a country-wide cost allegation; alternatively, the petitioner will have 20 days after the filing of sales questionnaire responses by individual respondents to file company-specific cost allegations.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, copies of public versions of the petitions have been provided to the representatives of the Governments of Canada and Mexico.

International Trade Commission Notification

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

Preliminary Determination by the ITC

The ITC will determine by January 18, 1999, whether there is a reasonable indication that imports of live cattle from Canada and Mexico are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in termination of the investigations; otherwise, the investigations will proceed according to statutory and regulatory time limits.

Dated: December 22, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-34468 Filed 12-29-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-834]

Initiation of Countervailing Duty Investigation of Live Cattle From Canada

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

EFFECTIVE DATE: December 30, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith, James Breeden, or Stephanie Hoffman, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, telephone (202) 482-0189, (202) 482-1174, or (202) 482-4198, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to the provisions codified at 19 CFR Part 351 (April 1998).

The Petition

On November 12, 1998, the Department of Commerce received a petition filed in proper form by the Ranchers-Cattlemen Action Legal Foundation (R-Calf, referred to hereafter as the "petitioner").

The petitioner had filed a similar petition on October 1, 1998 (hereafter referred to as the "original petition"), but had withdrawn it on November 10, 1998. In refiling the petition on November 12, 1998, the petitioner requested that the Department incorporate into the record all submissions made in connection with the original petition. The Department granted this request, and also incorporated into the record all submissions made by other interested parties in connection with the original petition.¹

¹ The Government of Canada and the Government of Quebec contested the refiling of the petition. We

After refiling the petition, the petitioner made several additional filings with respect to industry support. The Department also received additional submissions on the issue of industry support from other interested parties.

In accordance with section 702(b)(1) of the Act, the petitioner alleges that manufacturers, producers, or exporters of the subject merchandise in Canada receive countervailable subsidies within the meaning of section 701 of the Act.

The Department finds that the petitioner has standing to file the petition because it is an interested party as defined in section 771(9)(E) of the Act. Further, the Department's analysis underlying its determination of industry support indicates that the petition in fact has sufficient industry support (see discussion below).

Scope of the Investigation

For purposes of this investigation, the product covered is all live cattle except imports of dairy cows for the production of milk for human consumption and purebred cattle specially imported for breeding purposes and other cattle specially imported for breeding purposes.

The merchandise subject to this investigation is classifiable under subheading 0102.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS), with the exception of 0102.90.40.72 and 0102.90.40.74. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise is dispositive.

During our review of the petition, we discussed with the petitioner whether the proposed scope was an accurate reflection of the product for which the domestic industry is seeking relief. We noted to the petitioner that the scope in the petition appeared to exclude all purebred cattle. The petitioner subsequently notified the Department that only purebred cattle intended for breeding purposes should be excluded from the scope of the investigation. We revised the scope accordingly. The petitioner has since indicated that this revised scope accurately describes the product for which the domestic industry is seeking relief.

note, however, that there is no statutory bar to refiling a petition which has been withdrawn. While the Department possesses the inherent authority to prevent a party from improperly manipulating its procedures, we have no reason to exercise that discretion in this case, particularly given the highly fragmented nature of the live cattle industry and the resulting complexity for this industry in expressing views on the petition.