6 East Coast fisheries get setback from U.S.

1-24-85 Globe + Mail B6

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WASHINGTON — Canadian saltfish exporters have received a setback from a preliminary U.S. trade ruling.

The Commerce Department said yesterday that Canadian exports of dried salted codfish are being dumped in the United States.

If final rulings in the case also go against Canada, six East Coast companies could be liable for heavy duties. The companies are Canadian Saltfish Corp., National Sea Products, R. I. Smith Co., Sable Fish Packers Ltd., Sans Souci and United Maritime Fisherman.

High levies — ranging between 13.2 per cent and 34.6 per cent — have been set, but they could be lowered later in the proceedings. In any case, they will be levied formally only if the U.S. International Trade Commission rules there is material injury to the domestic industry — one Puerto Rican company.

Josh Bolten of O'Melveny and Myers, a Washington law firm representing some of the Canadians, said "we're obviously disappointed, but we remain optimistic that we can prevail." In a statement released in Ottawa, Ron Bulmer of the Fisheries Council of Canada was equally confident of winning in the end.

But Paulo da Cunha, president of Codfish Corp., the Puerto Rican company that accuses Canada of dumping, was pleased with the department's decision.

Canada accounts for 70 per cent of the Puerto Rican market. Mr. da Cunha set up a plant in 1981 using Canadian codfish supplies, but sour relations between Mr. da Cunha and some of the Canadian companies over their respective marketing practices caused difficulties from the start.

Mr. da Cunha, who used to buy from Canada, hopes to get a loan guarantee from Puerto Rico to purchase alternative supplies from Maine and Alaska. Now, his plant and its 100 workers are idle.

His lawyer, Bart Fisher, who also represents northeastern U.S. fishermen angry about increased competition from Canada, blames Ottawa and the provinces for heavily subsidizing the troubled East Coast industry.

Mr. Fisher noted that yesterday's ruling found that Canadian saltfish exports were priced below the cost of production. However, the department has not yet sent investigators to Canada.

In December, an investigation by the International Trade Commission on the northeastern groundfish industry cited Canada's fishing subsidies in its review of the East Coast industry. Next month, the U.S. fishermen are expected to decide if they will ask the commission to launch a dumping or subsidy case against Canada.

Mr. Fisher maintains there is "sympathy in Congress for a legislative solution if Canada doesn't get its own house in order." So far, though, the industry has been unable to present a united front.

Commercial Fisheries News

SPECIAL SECTION

ENGINE SUPPLEMENT

$1.50

Volume 12 Number 11 | New England's Fishing Newspaper | July 1985

Salt cod duty victory hailed as boost to NE countervail case

WASHINGTON, DC - The June 12 International Trade Commission (ITC) decision to impose anti-dumping duties on Canada on dried salted codfish has the New England fishing industry much encouraged about the prospects for countervailing duty cases on imports of groundfish, scallops and lobsters.

"This decision breaks a losing streak of six," said Bart Fisher, referring to previous groundfish cases before the ITC which have failed. "The importance of this case is that the ITC has shown a willingness to find injury." Fisher is an attorney with Patton Boggs and Blow who represented the US side in the case. He also represents the North Atlantic Fisheries Task Force, the New England group planning to file a countervailing

Task force chairman Sam Parisi said, "The ITC decision will show people that it can be done. This is a great day for US fishermen who've been contending that Canada has been subsidizing its fishing industry and practicing unfair competition."

The 4-1 ITC vote is the Final Injury Determination in the salt cod case and imposes duties which average 16.3% and go as high as 20.75% for

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two Canadian companies. By voting this way the ITC has stated that it felt that Canadian actions selling fish at below the cost of production have "materially retarded" a US industry.

The industry in this case was one company, the Codfish Corp. of Ponce, Puerto Rico which brought the petition against the Canadians. Codfish Corp. started in 1981 trying to import wet salted codfish for drying and selling in Puerto Rico and has since alleged that they had to stop production because they could not compete with the Canadian low-price imports.

The ITC commissioners' reasons for finding injury will not be made public for several weeks when they will be written up as legal opinions.

Canada now must pay duties

Canada must now pay duties equal to the final dumping margins established by the Department of Commerce in May, listed below.

The Canadian companies have been posting bond since the preliminary margins were set in January, awaiting the Final Injury Determination. With the affirmative ITC vote, the bond money has been transferred to the US Treasury.

	Duty
Canadian Salt Fish Corp.	20.75%
United Maritime Fishermen	20.75%
Sable Fish Packers	10.95%
Sans Soucy	3.40%
R.I. Smith Co.	1.49%
National Sea Products	1.27%
All others (weighted average)	16.30%

There are two appeal processes available to the Canadians. When the commissioners issue their written opinions, the Canadians may appeal the decision to the Court of International Trade in New York. If that court ruled in favor of the appeal, they could send the case back to the ITC to do all over again. Knowledgeable observers who did not want to be quoted, have stated that they doubt the Canadians will take this step.

More likely is the regular annual review of the duties which is available to the Canadians. If they request a review, the Commerce Department will examine the facts of the case to see if the size of the duty needs to be adjusted.

Canadian reaction

"We are surprised to some extent; certainly not thrilled," was the reaction of Brenda Dunbar of the Ottowa-based Canadian Association of Fish Exporters.

"It is difficult to understand for the Canadian industry," she said. "It will create bad feelings across the border." Citing other recent ITC decisions which have gone against Canada, she said, "Raspberries, pork, saltfish, and potentially groundfish - how many more will we face?"

"US law acts like a trade restriction," was Canadian Vice Consul and Assistant Trade Commissioner Stephen Greene's comment from Boston. "The problem is with US law. In some cases Canadian companies may have been selling at below the cost of production, but that is where the market is," he explained.

"The purpose has not been to keep other people out of the market but to stay *in* the market." Greene said the price they sold at in Puerto Rico was not lower than the price in other salt fish markets such as Portugal.

Mary Jenkins of the International Trade Administration (ITA), the branch of the Commerce Department which set the dumping margins, explained, "If the petitioner alleges that the other country is selling below the cost of production, then the ITA must examine that." If they find the allegation to be true, that determines the amount of the duty and the ITA does not examine the relationship between the selling price and the world market price.

Help or hurt New England

According to Fisher, Paulo Da Cunha, president of Codfish Corp. will be re-opening for business within three weeks of the decision. Fisher said Da Cunha has signed an agreement to buy fish from Alaska for drying. He has also received a $2 million line of credit from the new administration in Puerto Rico.

Da Cunha apparently also intends to buy salt fish for drying from New England, which will open a new market for New England processors, giving them access to the $17 million Puerto Rican market.

While that spells opportunity in the long run if Da Cunha is able to stay in business, fishermen in New England have wondered whether the duties would slow the purchase of US fish by Canada for salting this summer and further depress prices during the summer season. However, Canada completed an agreement to sell salt fish to Portugal this year and market observers say that to date, Canadians continue to buy US fish for salting in as large or larger than normal amounts.

Impact on Canada

It's unclear yet how much Canadian salt fish will continue to come into Puerto Rico, and if it comes, who will absorb the duty.

Dunbar said, "There are only so many markets you can sell salt fish into." She said that Canada faces some duties in Europe as well. Others point out that the Canadians' options are severely limited selling to third countries because their dollar, like the US dollar, is currently very strong relative to foreign currencies.

For Canada, "the big loser is Canadian Saltfish Corp. (CSC)," according to Fisher. CSC is a crown, or government corporation which has a legal monopoly on salt fish in Newfoundland. It had roughly 75% of the Puerto Rican market, according to briefs filed in the case and its duty, 20.75% is the highest imposed.

Relation to countervail

"I see this as having nothing at all to do with any potential countervail suit with groundfish," is the Canadian position, put forward by Greene. He said that the markets for salt cod and fresh groundfish are completely distinct so that the ITC decision should not help or hurt the Canadians.

"Subsidies are not *directly* relevant in an anti-dumping case," Fisher explained. He said that they did discuss the fact that subsidies had been given to the Canadian Saltfish Corp, however, and the case, "really lays the groundwork for the next one."

Fisher will be be meeting with the task force to discuss strategy for New England's case in late June.

Robin Alden Peters