



DFO - Library / MPO - Bibliothèque



12013422

Occasional Papers in Trade Policy

**FOREIGN NON-TARIFF BARRIERS
TO CANADIAN FISHERIES TRADE**

BY: F. Renault and A.J. Sarna

International Affairs Directorate
1430 Department of Fisheries and Oceans
R45 Ottawa, Canada
c. 2

December 1994

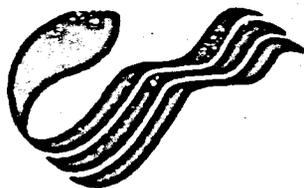


Fisheries
and Oceans

Pêches
et Océans



Canada



HF
1430
R45
C.2

Occasional Papers in Trade Policy

Department of Fisheries
& Oceans
Library

DEC 23 1993

Bibliothèque
Ministère des Pêches et des
Océans
OTTAWA

**FOREIGN NON-TARIFF BARRIERS
TO CANADIAN FISHERIES TRADE**

BY: F. Renault and A.J. Sarna

International Affairs Directorate
Department of Fisheries and Oceans
Ottawa, Canada

December 1994



Fisheries and Oceans
Pêches et Océans



Canada

TABLE OF CONTENTS

	<u>PAGE NUMBER</u>
Overview	1
Country Surveys	
Argentina	7
Australia	7
Brazil	8
China	8
Colombia	8
Dominican Republic	8
Ecuador	9
Egypt	9
European Union	9
Finland	12
Ghana	13
Guyana	13
Haiti	13
Hungary	13
India	13
Indonesia	14

PAGE NUMBER

Country Surveys (continued)

Israel	14
Ivory Coast	14
Japan	14
Korea (Republic of)	15
Malaysia	15
Mexico	16
Morocco	16
New Zealand	16
Nigeria	16
Norway	17
Pakistan	17
Philippines	17
Romania	17
Sierra Leone	17
South Africa	18
Sweden	18
Switzerland	18
Taiwan	18
Thailand	19

PAGE NUMBER

Country Surveys (continued)

Tunisia	19
Turkey	19
United States	20
Venezuela	22

Annexes - Examples of Non-Tariff Barriers 23

1. Australian Import Ban on Fresh, Chilled and Frozen Salmon and Cold Smoked Salmon 24
2. European Union - 1994 Reference Prices 26
3. Republic of Korea - Import Licensing Controls Scheduled for Elimination 27

Select Bibliography 30

OVERVIEW

Non-tariff barriers impeding market access for fish and seafood exports continue to be an important factor inhibiting competitive exporting nations such as Canada from achieving optimal globalization of operations. The most pernicious types of barriers are quantitative restrictions such as import licensing quotas and fish health and inspection standards that are erected as devices for disguised trade protectionism.

The survey of non-tariff barriers contained in this study covers a wide variety of barriers existing in over forty countries in addition to the tariff structure. The Sectoral Advisory Group on International Trade in Fish and Fish Products, the Government of Canada's industry panel on fisheries trade policy and promotion, is examining action plans that deal with these non-tariff barriers. Priority to be attached to individual barriers depends on their degree of impact on Canadian exporters whether in tangible or potential market losses or in terms of the adverse precedent they could set.

Canada is one of the world's major fish exporters. In 1993 fish exports totalled \$2.6 billion. Canadian fisheries exports account for nearly 85% of total national production in value terms. Leading markets are the United States which purchases 56% of Canadian exports, Japan which takes 25%, the European Union whose share is 11% and other countries notably the Republic of Korea, Australia, Scandinavian and Caribbean countries which account for the balance. Because developing country markets particularly in the Asia-Pacific region offer growing opportunities for Canadian exports, it can be expected that increased emphasis will be placed on liberalized trading conditions in these countries.

It is estimated that the non-tariff barriers described in this survey adversely affect over \$300 million yearly in foregone Canadian fisheries trade.

Results of the GATT Uruguay Round

The Uruguay Round of Multilateral Trade Negotiations under the GATT officially concluded on December 15, 1993 after seven and a half years of difficult and at times acrimonious negotiations. Exactly four months later, Trade Ministers from the 117 participating countries meeting in Marrakesh signed the final texts of 28 agreements and tariff cuts agreed upon in the Round and paved the way for the establishment of the successor to the GATT, the World Trade Organization (WTO), which will be charged with implementing the trade liberalization package approved by Ministers.

Fish exporting nations led by Canada had sought total elimination of fisheries tariffs, on a reciprocal basis. The results of the Round fell short of this objective although the outcome for the fisheries sector is certainly positive. In most of Canada's major foreign markets for fish and seafood, with the exception of the U.S. and Mexico (covered by the North American Free Trade Agreement), tariff reductions average 30% over five years beginning in 1995.

Vigilance will be required on the part of Canada and other net exporting nations to ensure that the benefits of fisheries tariff liberalization obtained in the Uruguay Round are not eroded by the erection in many countries of a growing variety of non-tariff barriers such as import licensing quotas and unjustified labelling and health certification requirements.

A point to keep in mind is that Canada's stake in the Uruguay Round was very different from what it was in earlier rounds in the sense that a North American Free Trade Agreement (NAFTA) now exists with the U.S., our largest trading partner, and with Mexico. Canadian fish exports to the U.S. market now represent over one-half the value of our total fish exports and U.S. tariffs on Canadian fisheries products have either been removed or are in the process of being removed. Thus, unlike other major fish exporting nations, Canada did not have to depend on the outcome of the latest GATT Round to improve its access to the large U.S. market.

As part of Canada's effort to secure tariff-free trade in fish and seafood products in the negotiations, plurilateral discussions were actively undertaken by leading developed and developing exporting countries including Canada for the removal of non-tariff barriers as well. While this objective proved too rich to digest on the part of the European Union, Japan and other countries, significant gains were made in dismantling long-standing non-tariff barriers. These relate, inter alia, to the Republic of Korea's agreement to dismantle its import licensing system by July 1997, the decision by Japan to steadily increase import quota levels and improve the quota administration system, and commitments by China and Venezuela to diminish the number of their non-tariff barriers upon accession to the GATT/World Trade Organization.

In addition, major benefits for international fisheries trade were achieved through revisions to the GATT countervailing duty and subsidies code and the GATT anti-dumping code, and through the successful negotiation of a new agreement on the application of sanitary and phytosanitary measures.

The new Uruguay Round subsidies code limits the ability of trading partners such as the U.S. to arbitrarily define a subsidy for the purpose of imposing countervailing duties. Non-trade distorting government assistance, such as social programs, general regional development programs and research and development funding will not be exposed to countervailing actions.

This agreement also imposes tighter rules on the use of countervailing duties by:

- exempting imported products benefitting from a less than one percent subsidy (the U.S. had until recently used a 0.5 percent standard);
- limiting any countervailing duty to a five-year period, after which it may be maintained only after a review finds that injury is likely to continue; and
- requiring that petitioners for countervail action represent more than 50% of the total domestic production of the imported product concerned.

Atlantic Canadian fresh groundfish exports were countervailed by the U.S. in 1986. The special U.S. duties were removed in 1990. Had the new subsidies agreement been in force at that time, the level of U.S. countervailing duty would have been smaller than the 6.8% levied and the petition would have been rejected for not representing a majority of the industry.

The Uruguay Round also produced a series of modifications to existing anti-dumping practices. These rules will provide some benefits to Canadian exporters while preserving the right of industries to take action against injurious foreign trading practices. In particular, the modified anti-dumping agreement provides for the following:

- investigating authorities are provided with more precise rules for the calculation of the dumping margin (i.e. the difference between the export price and either the cost of production or the domestic price).
- the factors taken into account in determining injury to domestic industry caused by dumping are more clearly defined.
- a five-year limit on the duration of an anti-dumping action is set unless a review determines that dumping is likely to recur.

Canadian salt cod exports to the U.S. were subject to anti-dumping duties from 1987-91. The revised anti-dumping code would have forced U.S. authorities to establish a lower dumping duty than the 26% rate calculated at that time.

The new Uruguay Round agreement on sanitary barriers includes rules to ensure that regulations and standards and related testing and certification procedures do not create disguised obstacles to trade. They must be based on scientific principles and evidence and be the least trade restrictive. This should be of considerable benefit to Canadian seafood exporters who face such entrenched barriers in Australia, New Zealand and the U.S. The agreement nevertheless recognizes that countries should not be prevented from taking measures necessary to protect human health or the environment and that standards exceeding international norms can be adopted if justified by scientific evidence.

In future multilateral trade negotiations Canada will continue to press for the elimination or phase-out of non-tariff barriers in the fisheries sector, which are inconsistent with the international trading rules, without offering any reciprocal concessions on fish or other products. Proposals for tariffication of fisheries non-tariff barriers along the lines of those that surfaced in the Uruguay Round and were later accepted for certain agricultural commodities are unlikely to be accepted by leading fish exporters. The likelihood that tariff equivalent levels calculated for non-tariff measures could reach rates of duty between 200 to 300% and would prolong measures that were and continue to be GATT-inconsistent would be sufficient to argue against such an approach to the removal of fisheries trade barriers. What may provide a more suitable formula for liberalization could be the conclusion of a WTO code on quantitative restrictions and discretionary import licensing for those residual hard-core measures still in effect.

The NAFTA Impact

Effective January 1, 1994, the North American Free Trade Agreement will bring about the liberalization of Mexican non-tariff barriers. The import licensing system for lobsters has already been eliminated. This was a major barrier for Canadian exporters. Restrictions on trucked shipments within Mexico and various customs processing and brokers fees on imports are scheduled to be removed by July 1999. It is also expected that the Canada/United States Working Group on Technical Trade Barriers established under the Canada/United States Free Trade Agreement, will be expanded to include Mexico. This Group has provided a useful venue for containing and reducing non-tariff barriers related to national seafood inspection standards.

Ongoing Negotiations

It is difficult to predict when another multilateral trade negotiating round under the World Trade Organization will occur. While such negotiations provide the best forum for the removal of non-tariff barriers acceleration of trade liberalization on a regional basis will also prove beneficial to fisheries trade. Of importance to Canada are negotiations to expand NAFTA to include other Latin American countries, the declaration by the Asia-Pacific Economic Cooperation Group to work towards a free trade area among its members over the next decade, and the Canada-Israel free trade negotiations.

Other institutional frameworks exist to encourage further fisheries trade liberalization. These include the following:

- a) WTO Dispute Settlement Panels
- b) NAFTA Dispute Settlement Panels
- c) Canada/U.S.A. FTA Working Group on Technical Trade Barriers
- d) the OECD Fisheries Committee
- e) the APEC Fisheries Committee
- f) annual bilateral fisheries consultations with Japan
- g) GATT Article XXII bilateral consultations with the European Union, Australia and New Zealand
- h) GATT Article XXIV.6 consultations with the European Union and its enlargement
- i) bilateral fisheries inspection consultations with the European Union and other countries
- j) GATT/WTO accession negotiations with China and Taiwan
- k) the GATT Trade Policy Review Mechanism for individual countries

A note of caution should be sounded in light of the significant progress that has been registered and will continue to be registered in liberalizing fisheries non-tariff barriers. This concerns the growing propensity by the United States and the European Union to threaten or apply trade sanctions against fish and marine products imported from countries whose conservation management programs they do not approve. It will be important to ensure that the WTO Trade and Environment Committee elaborates appropriate guidelines for the use of such measures.

COUNTRY SURVEYS

ARGENTINA

Certification Requirements

- The inspection and health certificates accompanying shipments of fish products exported to Argentina must be signed by a veterinarian. In the case of products originating in Canada, DFO inspectors may sign the certificates but the latter must also bear the signature of a veterinarian, preferably from Agriculture Canada.

AUSTRALIA

- Since 1975 Australia has prohibited imports of fresh, chilled, frozen and cold-smoked salmon to protect its farmed salmon and trout aquaculture industry. This has taken the form of an import prohibition through quarantine regulations (see Annex). Australian authorities claim that alleged disease agents in discarded fish wastes would find their way into Australian lakes and streams and destroy the country's aquaculture industry.
- Canada considers that the Australian ban is a disguised trade barrier contrary to GATT rules. Some 30 countries buy ocean-caught Pacific salmon from Canada and over the years there has been no evidence of transfer of disease to foreign fish populations. Australia and New Zealand are the only countries prohibiting such imports on these grounds. This issue has been the subject of consultations between Canada and Australia under GATT Article XXII which the United States has also joined as an interested exporter.

BRAZIL

- A Merchant Marine Renewal Charge is applied on all fisheries products imported by sea, except from the Latin American Free Trade Agreement bloc.
- Import licences are required for fish products but the issuing of licences has been suspended until Brazil's foreign exchange situation improves. This has adversely affected Canadian saltfish exports.

CHINA

- The People's Republic of China has applied to accede to the GATT. In a move towards greater transparency and a more GATT-consistent trade regime, China published new import quota regulations on January 19, 1994. However, the sweeping nature of the regulations (which cover all imports except electronics) and the primacy of central planning in which all imports must be approved by the State Planning Commission and state-trading corporations do not appear to be in the spirit of the GATT and continue to pose impediments to Canadian exporters.
- A concerted effort is being made to have China open up its restrictive import regime in the course of bilateral negotiations with its major trading partners dealing with its request to accede to the WTO.

COLOMBIA

- Imports of saltfish (dried, salted or in brine) and smoked fish are subject to prior approval from the Import Board of Incomes and require an import licence.

DOMINICAN REPUBLIC

- Import licensing is required for all fish products.

ECUADOR

- Canned fish products must be analyzed and registered with the Ministry of Health prior to importation.

EGYPT

- Most imports of fish products are handled by state-trading corporations which receive preferential treatment in the granting of import licences.
- Smoked salmon imports are banned to protect local industry.
- Quality control regulations are used to protect domestic industry. The inspection process for imported fish normally takes seven to ten days. It is recommended that exporters consider insurance coverage against the risk of rejection.

EUROPEAN UNION

Non-tariff barriers in the European Union (EU) as a whole and in some EU member countries in particular pose a more serious problem for exporters than high tariffs.

EU-WIDE NTB'S

Global Tariff Quotas

- Under the EU's tariff rate quota system, set quantities of frozen herring, frozen cod and cod fillets, salt cod and fillets, frozen pike fillets, frozen hake fillets, and frozen silver hake fillets can enter at reduced tariff rates. Normal tariff rates apply once a quota has been filled. Autonomous or supplementary tariff quotas are also

established at low rates of duty for specified quantities of several fish products of interest to Canada for limited periods of the year. These are designed to meet the needs of EU domestic processors who are short of raw material.

Reference Prices

- To protect its fishermen from excessive price drops, the EU operates a system of "reference" or minimum prices for imported fish. Reference prices are calculated according to a complex formula based on previous EU market prices. The main concern with reference prices is that they can be adjusted arbitrarily in response to political pressure and act as a surrogate anti-dumping/countervailing duty mechanism. (See Annex for products covered).

Import Inspection Requirements

- Under a 1994 agreement on recognition of equivalency between Canadian and EU inspection systems, fisheries products exported by Canadian processors are exempted from mandatory inspection by EU countries once these firms appear on a suppliers' list approved by DFO. Problems have arisen with regard to delays experienced by new Canadian firms in gaining exemption. One of the reasons for such delays is that the EU wants the list updated only twice a year. As well, the EU is proposing higher inspection rates (20%) even for products from companies on the approved list unless a broader mutual recognition agreement that also covers meat products is concluded.
- Aquaculture products can only enter the EU if sold by EU-approved producers. Discussions are underway with the EU to have a list of Canadian aquaculture farms authorized to export to the EU.

Labelling

- Canned sardines sold in the EU must be prepared exclusively with fish of the species "Sardina pilchardus Walbaum". Canadian sardines made from juvenile herring cannot therefore use the sardine label. These restrictions are contrary to the standards applied by the FAO's Codex Alimentarius Commission.

Import Bans

- Canadian Inuit face an import ban on carvings, handicrafts and other products made from whales and narwhal harvested in Canadian waters under Canadian conservation regulations. The ban is discriminatory because it does not apply to sales by the Inuit of Greenland.

EU COUNTRY-SPECIFIC NTB'S

Scallops Nomenclature (FRANCE)

- The French Government has issued several regulations since March 1993 to have Canadian shucked scallops, which until recently were sold in France under the name "noix de St-Jacques", marketed as "pétoncles". In France, "pétoncles" are considered as an inferior product which commands lower market prices. Canada has complained to the GATT Council over this matter and initiated GATT Article XXII consultations with the European Union.

Maximum Scallop Moisture Content (FRANCE)

- France has established a maximum moisture to protein ratio of 4.95 for scallop meats. Product with a higher ratio is deemed to have been "soaked" and is rejected. Canada considers that this ratio is too low and does not reflect the naturally occurring higher water content at certain times of the year, particularly during the roe season.

Canned Salmon Drained Weight (FRANCE)

- Under French regulations, the drained weight of a can's contents must equal the weight indicated on the can. This sometimes poses problems because (unlike tuna, for example) no liquid is added to salmon during the canning process. It follows that any liquid subsequently drained from the finished product has to come from the fish originally placed in the can.

Canned Sardines (France)

- Imports are subject to global quota restrictions.

Consumer Product Nomenclature (ITALY)

- Italian law requires that all fish species be given an official Italian name. As well, there can be some confusion regarding the correct labelling terminology to be used for frozen products.

Certification Requirements (PORTUGAL)

- Separate certificates of origin are required for fish imports from Canada despite the inclusion of origin information in EU/Canada Health Certificates accompanying shipments.

FINLAND

- Global import quotas administered through an import licensing system apply to fresh and frozen salmon. Imports are permitted only when domestically-produced supplies are inadequate.
- Fish meal must be tested by the Ministry of Agriculture before the product will be admitted.

GHANA

- For fish products in general, Ghana requires import licence applications to be graded according to a firm's size and internal distribution networks. Most imports are made by the National Procurement Network.
- Imports of fresh and frozen salmon and all types of sardines are subject to quantitative restrictions and discretionary import licensing.

GUYANA

- Only the Guyana Marketing Corporation is licensed to import fish and fish products.

HAITI

- All fish products are subject to an import licence issued by the Ministry of Commerce and Industry. There is a surcharge of 4% on the CIF value of imported fish products, and an additional tax of 2%. As well, importers pay an "Economic Liberation Tax" of 1% on the amount of the customs invoice when the amount exceeds U.S. \$2,000. A cash deposit of up to 100% is required when importers open letters of credit at the National Bank.

HUNGARY

- All fish products are subject to import licences and global import quotas.

INDIA

- No import licences for fish products have been granted since 1980/81 in an attempt to conserve foreign exchange.

INDONESIA

- Smoked, dried and salted fish imports are subject to licensing and prior deposit schemes.

ISRAEL

- Import licensing for fish products is required by the Ministry of Agriculture and the Ministry of Industry and Trade.
- There is currently an import prohibition on canned sardines (except those originating in EFTA countries) but this is to be replaced soon by a special levy. There are also import controls on freshwater fish.
- A free trade area between Canada and Israel is under negotiation and removal of these barriers will be part of Canada's trade liberalization objectives.

IVORY COAST

- Several import taxes are levied: a 0.6% customs service fee for all fish imports; a 15% tax on fresh and frozen fish; and a fiscal tax ranging between 34 to 43% for freshwater, salted and preserved fish and for shellfish.

JAPAN

- Import quotas and licensing apply to the following species of interest to Canada: frozen Atlantic and Pacific herring, cod and mackerel (including fillets), scallops, frozen hake, smoked herring and squid.

- The import quota system in Japan is designed primarily to protect Japanese fishermen and processors from foreign competition. Canada has encouraged Japan to take steps to ensure that its import quota system is steadily liberalized and that it does not act as an impediment to competitive Canadian exports. Japan has made efforts to provide regular increases for most quota items and improve the accessibility of new importers under the quota system. However such increases are not guaranteed and can be decreased at any time. Canada has registered its disappointment that Japan could not agree in the Uruguay Round to phase out its import quotas. Japan is also being encouraged to allow retail and supermarket chains to apply for quotas on a first-come, first-served basis.

REPUBLIC OF KOREA

- Since becoming a GATT signatory, Korea has invoked the balance of payments provisions of GATT Article XVIII-B to justify otherwise GATT-inconsistent trade measures. In November 1987, GATT expressed the view that Korea's economic situation no longer justified these import restrictions. In October 1989, Korea agreed to phase out import licensing controls applying to nearly 300 fisheries products as part of its trade liberalization offer in the Uruguay Round.
- With the conclusion of the Round, Korea has reduced its tariffs on fish products to 10% for most frozen items and to 20% for most processed items. In addition, Korea has undertaken to dismantle its import licensing system by July 1, 1997. Those fish and seafood items which continue to be subject to restrictive import licensing include frozen capelin, mullet (suckerfish), mackerel, shrimp, pike and perch (see Annex).

MALAYSIA

- There is a 5% surcharge on a number of fish products (except frozen). As well, canned fish imports containing chemical additives are controlled.

MEXICO

- Until June 30, 1999, Mexico is permitted under NAFTA to charge a 0.8% customs processing fee and a 0.2% broker's fee on all imports. In addition, trucked shipments to Mexican border states must use Mexican carriers until the end of 1996. Full cross-border access to Mexico's entire territory will be provided to Canadian trucking firms by the year 2000.

MOROCCO

- Morocco maintains two categories of imports - List "A" (items that can be imported without restriction) and List "B" (items that require a permit). Fisheries products are among the items included in List "B". In practice, items on List "B" are not granted an import permit. The Moroccan government's objective is to protect local industry and conserve foreign exchange.
- Only Portuguese oysters weighing less than 35 grams and snails other than sea snails are on List "A".

NEW ZEALAND

- New Zealand prohibits all imports of salmon, except canned salmon (see note on Australia above).

NIGERIA

- Imports of fisheries products are subject to global quotas.

NORWAY

- Imports of fresh mackerel and mackerel fillets are subject to a global quota. Import licences are granted when domestic landings do not cover the needs of the market.
- Imported canned fish is subject to prior approval from the Canning Institute for Quality Control.

PAKISTAN

- Fish products are on Pakistan's negative import list. No imports are permitted.

PHILIPPINES

- Imports of canned mackerel and canned sardines are prohibited.

ROMANIA

- Import licences are given only to state trading agencies.
- Romania sets a global annual import quota based on projected supply and demand or available foreign exchange.

SIERRA LEONE

- The government gives preference to state-controlled companies for the importation of fisheries products.

SOUTH AFRICA

- Quantitative restrictions and import licensing are applicable to frozen Pacific salmon, frozen Atlantic salmon, frozen shrimp and canned salmon.

SWEDEN

- Imports of herring and cod are subject to a discretionary licensing system combined with import quotas. Lobsters and oysters can only be imported during certain periods of the year. The purpose of these restrictions, administered by the National Board of Fisheries, is to avoid surpluses that could damage Swedish fisheries.

SWITZERLAND

- A public health certificate for imports of prepared fish, crustaceans, molluscs and sea urchins is required. All imported items are subject to a statistical tax of 3% of the customs duty and a 9.3% turnover tax assessed on the CIF duty-paid value.

TAIWAN

- Import bans are in force on herring, sardines, mackerel and squid.
- Restrictive import licensing requirements apply to some 200 fish products which are subject to quantitative restrictions. Licences for such products can only be obtained from the Board of Foreign Trade rather than from an authorized foreign exchange bank.
- A Harbour Construction Fee amounting to 0.5% of the CIF value is levied on all goods arriving by ocean carrier.

THAILAND

- Food items imported into Thailand require an import licence and product registration by the Thai Food and Drug Administration (FDA). In the case of preserved fish, a description of ingredients and the manufacturing process must be supplied.
- An import licence costs 15,000 baht (currently CDN \$790) and the registration fee is 5,000 baht (currently CDN \$263 per product). In addition to the 60% tariff rate on prepared fish, there is a 7% Value Added Tax.
- It should take from 45-60 days to obtain an import licence from Thai authorities, but in practice the process can be considerably longer.

TUNISIA

- Quotas are used to discourage imports to conserve foreign exchange.

TURKEY

Mass Housing Levy

- In 1984, the Turkish government established a Mass Housing Levy on all imports to finance its low-cost housing scheme for poor and middle-income families. For fisheries imports, the Mass Housing Levy ranges from 20% to 43% of the CIF value of the imported product and exceeds by many times the applied tariffs. These vary between 3% and 13% for imports of non-EU origin and between 2% and 5% for imports from EU or EFTA countries.
- The Mass Housing Levy represents a percentage of the CIF value of the imported product and therefore makes it uneconomic to export fish originating in distant countries which incur higher freight charges than those shipped over relatively smaller distances.

UNITED STATES

U.S. tariffs affecting Canadian seafood exports are well on the way to being eliminated with the implementation of the North American Free Trade Agreement (NAFTA) but fisheries products continue to face, on the American market, a variety of non-tariff barriers (NTB's) which at times can pose greater problems for exporters than high duty rates.

Sanitary, fish health and labelling restrictions have been the subject of bilateral discussions with the U.S. under the Canada/U.S. Free Trade Agreement Working Group on Technical Barriers to Trade. Existing U.S. NTB's include the following:

Government Procurement Programs

- The Canadian fishing industry is unable to bid for U.S. government procurement of fish products for military, school and other mass feeding programs. U.S. producers are routinely given preference for fish products otherwise available from Canadian producers, in accordance with the "Buy American" purchase norms of the U.S. government.

Technical Regulations and Standards

- U.S. testing procedures for imported fresh seafood can take longer to conduct than the shelf life of the product. The "Perishable Food Policy" requires that a product be held until the results of testing are known by the Food and Drug Administration. Thus, perishable products can incur significant deterioration while awaiting test results;
- Mercury testing for swordfish is more extensively applied to imports than to U.S.-caught domestic fish. A change in sampling and examination procedures for Canadian swordfish may make it easier to enter the U.S.;
- Sampling technologies more severe than those in Canada are applied to determine the presence of listeria in cold-smoked fish, canned lobster and ready-to-eat seafood. The U.S. appears to have adopted a zero tolerance level;

- There are no colour additives approved for use in fish in the United States. Canthaxanthin and astaxanthin are commonly used in aquaculture production. Canthaxanthin can be used to colour foods generally but it is the FDA's position that fish were never intended to be included in the regulation providing for this additive's use in foods;
- The FDA considers ready-to-eat, salt-cured, air-dried, uneviscerated fish, which may or may not be smoked, to be a potentially life-threatening, acute health hazard because of the possible presence of *Clostridium botulinum* toxin. The only way bloaters (whole smoked herring) can enter the United States is if eviscerated before the curing and smoking process;
- U.S. rules regarding the water content in imported scallops fail to recognize natural variations which can occur during the year;
- Cold-smoked fish may not be imported into several Mid-Western states (Minnesota, Michigan, etc.) due to the fear of botulism. State regulations are often at variance with federal FDA standards and regulations.

Import Bans

- Under the U.S. Marine Mammal Protection Act, the importation of Canadian marine mammal handicraft and artisanal products produced by Canadian Aboriginal peoples is prohibited although similar products of U.S. origin can be sold by Alaskan native groups. In addition, imports of commercially-harvested marine mammal products taken from non-endangered species are prohibited.
- The Nicholson Act prohibits deliveries of fish by foreign fishing vessels to a U.S. port if caught on the high seas (defined by U.S. Customs authorities as beyond 12 miles from the Pacific coast and 3 miles from the Atlantic coast).

- The Pelly Amendment to the Fishermen's Protective Act gives discretionary authority to the President to prohibit imports of fish products from any country which diminishes the effectiveness of an international fishery conservation program or a similar program for endangered or threatened species. Such determinations are made unilaterally by the U.S.

Countervailing Duties

- The fixing of countervailing duties in the U.S. is determined by the U.S. International Trade Commission following a finding of material injury caused by subsidized imports. Such a finding can lead to CV duties even if the Commission reaches its decision through a tied vote. In Canada and other jurisdictions public determinations of injury are made by majority vote.

VENEZUELA

- A 5% customs service tax is levied on all imports, as well as a deluxe tax on salmon, cod, lobster and crabs.
- Licences are required to import fish prior to local catch seasons.
- Importers must be registered and show a previous import experience of at least 5 continuous years in the sector or product they wish to market.

ANNEXES

EXAMPLES OF NON-TARIFF BARRIERS

1. Australian Import Ban on Fresh, Chilled and Frozen Salmon and Cold Smoked Salmon

QUARANTINE PROCLAMATION No. 86A

[Extract from *Australian Government Gazette*. No. S33, dated 21 February 1975]

Australia
JOHN R. KERR
Governor-General

By His Excellency the
Governor-General of
Australia.

WHEREAS it is provided by sub-section 13 (1) of the *Quarantine Act* 1908-1973 that, among other things, the Governor-General may, by proclamation, prohibit the importation into Australia of—

- (a) any articles likely, in his opinion, to introduce any infectious or contagious disease, or disease or pest affecting persons, animals or plants, or
- (b) any animals or any parts of animals:

AND WHEREAS it is provided by sub-section 13(2) of that Act that the power of prohibition under section 13 of that Act shall extend to authorize prohibition generally or with limitations as to place and subject matter, and either absolutely or subject to any specified conditions or restrictions:

AND WHEREAS by Quarantine Proclamation No. 76 A published in the *Gazette* on 28 July 1966 the importation into Australia of animals was prohibited with limitations as to place and subject-matter, and either absolutely or subject to specified conditions and restrictions:

AND WHEREAS by Quarantine Proclamation No. 77 A published in the *Gazette* on 28 July 1966 the importation into Australia of articles and parts of animals was prohibited with limitations as to place and subject-matter, and either absolutely or subject to specified conditions and restrictions:

AND WHEREAS it is desirable to revoke those proclamations in so far as they prohibit the importation into Australia of—

- (a) fish, whether alive or dead, of the sub-order Salmonidae; and
- (b) semen, ova or other parts of fish of the sub-order Salmonidae,

and to make provisions in their stead:

NOW THEREFORE I, Sir John Robert Kerr, the Governor-General of Australia, acting with the advice of the Executive Council, hereby—

- (a) revoke Quarantine Proclamation No. 76 A in so far as it prohibits the importation into Australia of fish, whether alive or dead, of the sub-order Salmonidae,

- (b) revoke Quarantine Proclamation No. 77 A in so far as it prohibits the importation into Australia of semen, ova or other parts of fish of the sub-order Salmonidae;
- (c) prohibit the importation into Australia of—
 - (i) live fish of the sub-order Salmonidae; and
 - (ii) semen and ova of fish of the sub-order Salmonidae;unless the Director of Quarantine or a person authorized by him has, by instrument in writing, consented to the importation and the instrument is produced to a Collector within the meaning of the *Customs Act 1901-1974* or to a quarantine officer; and
- (d) prohibit the importation into Australia of dead fish of the sub-order Salmonidae, or any parts (other than semen or ova) of fish of that sub-order, in any form unless—
 - (i) prior to importation into Australia the fish or parts of fish have been subject to such treatment as in the opinion of the Director of Quarantine is likely to prevent the introduction of any infectious or contagious disease, or disease or pest affecting persons, animals or plants; and
 - (ii) the Director of Quarantine or a person authorized by him has, by instrument in writing, consented to the importation and the instrument is produced to a Collector within the meaning of the *Customs Act 1901-1974* or to a quarantine officer

L.S.

Given under my Hand and the
Great Seal of Australia on 19
February 1975.

By His Excellency's Command,

D. N. EVERINGHAM

Minister of State for Health.

Species	Size (°)	Reference price (ECU/tonne)			
		Gutted fish with head (°)		Whole fish (°)	
		Extra. A (°)	B (°)	Extra. A (°)	B (°)
Cod of the species <i>Gadus morhua</i> ex 0302 50 10	1	926	874	669	514
	2	926	874	669	514
	3	874	720	514	412
	4	689	473	391	278
	5	484	278	288	185
Coalfish <i>(Pollachius virens)</i> ex 0302 63 00	1	473	473	368	368
	2	473	473	368	368
	3	468	468	363	363
	4	378	273	200	147
Haddock <i>(Melanogrammus aeglefinus)</i> ex 0302 62 00	1	669	586	513	440
	2	669	586	513	440
	3	564	476	396	271
	4	498	410	374	256
Hake of the species <i>Merluccius merluccius</i> ex 0302 69 65	1	2 812	2 643	2 221	2 052
	2	2 117	1 996	1 659	1 518
	3	2 109	1 968	1 631	1 490
	4	1 799	1 659	1 406	1 153
	5	1 687	1 546	1 321	1 068
		Whole or gutted fish with head		Without head	
		Extra. A (°)	B (°)	Extra. A (°)	B (°)
Monkfish (<i>Lophius spp.</i>) ex 0302 69 81	1	1 341	970	3 452	2 685
	2	1 716	1 343	3 261	2 493
	3	1 716	1 343	3 069	2 302
	4	1 437	1 063	2 685	1 918
	5	821	448	1 918	1 151

(°) The freshness categories, sizes and presentations are those defined pursuant to Article 2 of Regulation (EEC) No 3759/92.

2. Frozen products

Species	Presentation	Reference prices (ECU/tonne)
1. Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> and <i>Gadus macrocephalus</i>) and fish of the species <i>Boreogadus saida</i> ex 0303 60 11, ex 0303 60 19, ex 0303 60 90, ex 0303 79 41	Whole fish:	935
	— with or without head	
	Fillets:	
	— industrial blocks, with bones (standard)	
	— industrial blocks, boneless	
	— individual fillets, with skin	
	— individual fillets, skinless	
	— blocks in immediate packing weighing not more than 4 kg	
	Minced blocks	
	Pieces and other meat	
ex 0304 20 21	2 032	
ex 0304 20 29	2 348	
ex 0304 90 35	2 224	
ex 0304 90 38	2 567	
ex 0304 90 39	2 456	
ex 0303 60 11, ex 0303 60 19, ex 0303 60 90, ex 0303 79 41, ex 0304 90 35, ex 0304 90 38,	1 008	
	1 188	

2. Coalfish (<i>Pollachius virens</i>) ex 0303 73 00	Whole fish:	615
	— with or without head	
	Fillets:	
	— industrial blocks, with bones (standard)	
	— industrial blocks, boneless	
ex 0304 20 31	— individual fillets, with skin	1 220
	— individual fillets, skinless	1 344
	— blocks in immediate packing weighing not more than 4 kg	1 247
	Minced blocks	1 379
ex 0304 90 41	Pieces and other meat	1 408
		673
ex 0303 73 00, ex 0304 90 41		809
3. Haddock (<i>Melanogrammus aeglefinus</i>) ex 0303 72 00	Whole fish:	815
	— with or without head	
	Fillets:	
	— industrial blocks, with bones (standard)	
	— industrial blocks, boneless	
	— individual fillets, with skin	
	— individual fillets, skinless	
	— blocks in immediate packing weighing not more than 4 kg	
	Minced blocks	
	Pieces and other meat	
ex 0304 20 33		1 820
		2 391
		2 166
		2 487
ex 0304 90 45		2 427
		805
ex 0303 72 00, ex 0304 90 45		952
4. Hake (<i>Merluccius spp.</i>) ex 0303 78 10	Whole fish:	771
	— with or without head	
	Fillets:	
	— industrial blocks, with bones (standard)	
	— industrial blocks, boneless	
	— individual fillets, with skin	
	— individual fillets, skinless	
	— blocks in immediate packing weighing not more than 4 kg	
	Minced blocks	
	Pieces and other meat	
ex 0304 20 57		1 036
		1 220
		1 055
		1 132
ex 0304 90 47		1 197
		777
ex 0303 78 10, ex 0304 90 47		1 023
5. Alaska pollack (<i>Theragra thalogrammus</i>) ex 0304 20 85	Fillets:	933
	— industrial blocks, with bones (standard)	
	— industrial blocks, boneless	
		1 086

3. Republic of Korea - Import Licensing Controls Scheduled for Elimination

Order	HS No.	Item name	Remarks
19	0301-92-9000	Eels (excluding glass eel/live)	1 July 1997
20	0301-99-2000	Yellow tail (live)	1 July 1997
21	0301-99-8000	Flat fish (live)	1 July 1997
22	0302-21-0000	Halibut (excluding livers and roes/fresh or chilled)	1 July 1996
23	0302-29-0000	Other flat fish (but not halibut, plaice and sole/excluding livers and roes/fresh or chilled)	1 July 1996
24	0302-64-0000	Mackerel (excluding livers and roes/fresh or chilled)	1 July 1997
25	0302-69-1000	Alaska pollack (excluding livers and roes/fresh or chilled)	1 July 1997
26	0302-69-2000	Yellow tail (excluding livers and roes/fresh or chilled)	1 July 1995
27	0302-69-3000	Hair tail (excluding livers and roes/fresh or chilled)	1 July 1997
28	0302-69-8000	Saury, including horn fish (excluding livers and roes/fresh or chilled)	1 July 1996
29	0302-69-9030	Pomfret (excluding livers and roes/fresh or chilled)	1 July 1996
30	0302-69-9090	Other fish (excluding livers and roes/fresh or chilled)	1 July 1997
31	0303-32-0000	Plaice (excluding livers and roes/frozen)	1 July 1996
32	0303-43-0000	Skipjack or stripe-bellied bonito (excluding livers and roes/frozen)	1 July 1996
33	0303-74-0000	Mackerel (excluding livers and roes/frozen)	1 July 1996
34	0303-75-0000	Dogfish and other sharks (excluding livers and roes/frozen)	1 July 1995
35	0303-79-1000	Alaska pollack (excluding livers and roes/frozen)	1 January 1996
36	0303-79-3000	Hair tail (excluding livers and roes/frozen)	1 July 1997

Order	HS No.	Item name	Remarks
37	0303-79-5000	Conger eel (excluding livers and roes/frozen)	1 July 1996
38	0303-79-6000	Yellow corvina (excluding livers and roes/frozen)	1 July 1997
39	0303-79-8000	Saury, including born fish (excluding livers and roes/frozen)	1 July 1997
40	0303-79-9090	Other frozen fish (excluding livers and roes) <ul style="list-style-type: none"> - Among "other frozen fish" Pacific hagfish and Atlantic hagfish (excluding those that are peeled using chemicals) and Monkfish shall be liberalized from 1 January 1995) - excluding the above, other frozen fish (includes freshwater fish) shall be liberalized from 1 July 1997 	1 July 1997
41	0304-20-1000	Filletts of Alaska pollack (frozen)	1 July 1995
42	0304-90-1010	Fish surimi of Alaska pollack (frozen)	1 July 1995
43	0305-59-2000	Anchovy (dried/not smoked)	1 July 1997
44	0305-69-3000	Hair tail (salted or in brine, not dried or smoked)	1 July 1996
45	0306-13-1000	Peeled shrimps and prawns (frozen)	1 July 1997
46	0306-23-2000	Dried shrimps and prawns	1 July 1997
47	0306-23-3000	Shrimps and prawns (salted or in brine)	1 July 1995
48	0307-49-1010	Cuttle fish (frozen)	1 July 1996
49	0307-49-1020	Squid (frozen)	1 July 1997
50	0307-49-3000	Cuttle fish and squid (dried)	1 July 1997
51	0307-91-1200	Abalone (live/fresh or chilled)	1 July 1997
52	0307-91-1990	Other molluscs (live/fresh or chilled)	1 July 1997
53	0307-91-9030	Sea squirts (live/fresh or chilled)	1 July 1996
54	0307-99-1130	Baby clams (frozen)	1 July 1997

Order	HS No.	Item Name	Remarks
55	0307-99-1190	Other molluscs (frozen)	1 July 1997
116	1604-14-1010	Tunas (prepared/canned goods)	1 July 1997
117	1604-14-1020	Skipjack (prepared/canned goods)	1 July 1997
118	1604-15-1000	Mackerel (prepared/canned goods)	1 July 1996
119	1604-19-1010	Saury (prepared/canned goods)	1 July 1996
120	1604-19-9010	Jerk filefish (prepared)	1 July 1996
121	1604-20-4090	Fish cake (not of crab flavour)	1 July 1995

SELECT BIBLIOGRAPHY

Canada, Department of External Affairs and International Trade, *Europe 1992: Working Group Report on Fisheries*, Ottawa, 1990

Canada, Department of Fisheries and Oceans, *Non-Tariff Barriers to Seafood Trade*, Report for 7th Workshop of the Pacific Economic Cooperation Council, Sept. 13-14, 1993, Vancouver

Canada, Department of Foreign Affairs and International Trade, *1994 Register of U.S. Barriers to Trade*, Ottawa, 1994

ibid, *Guidelines for Canadian Fish Exporters 1994*, various countries, Ottawa 1994

Canadian Association of Fish Exporters, *Quantification of Trade Barriers Affecting Canadian Seafood Exports*, Ottawa, 1994

ibid, *Seafood Market Report*, Ottawa, October 1993

Canada, Department of Industry, Science and Technology, *Seafood and Marine Products - Overview*, Ottawa, 1993

FAO, *Register of Import Regulations for Fish and Fishery Products*, Rome, 1981

GATT, *Problems of Trade in Fish and Fisheries Products*, Spec (84)7/Rev.1, Geneva, March 1985

Hughes, Sally, *Barriers to New Zealand Seafood Trade*, New Zealand Fishing Industry Board: Wellington, 1991

McDorman, Ted, "The Canada-United States Free Trade Agreement and the Canadian Fishing Industry", in VanderZwaag, David, ed; *Canadian Ocean Law and Policy*, Toronto, 1992

OECD, *Fisheries Issues: Trade and Access to Resources*, Paris, 1989

OECD, Committee for Fisheries, *The Impact on Trade in Fish and Fish Products by Sanitary and Hygienic Regulations*, Doc. FI/301, Paris, Aug. 23, 1990

Renault, Fernand, *Fisheries Tariff Liberalization in the GATT Uruguay Round of Multilateral Trade Negotiations*, Department of Fisheries and Oceans, International Affairs Directorate: Ottawa, Nov. 1994

Sarna, A.J., "Canada's Fisheries Trade with Japan" in *Nova Scotia and Japan: The Trade and Investment Picture*, Canada - Japan Trade Council: Ottawa, 1992

ibid; "Fisheries Trade Policy: Commonalities and Divergences between Developed and Developing Countries", in *International Conference on Fisheries: Proceedings*, Université du Québec à Rimouski: Rimouski, 1986

Siddiqui, Raziuddin M., *European Community's Fishery Imports of Selected Products under Preferential Tariff Arrangements and Tariff Quotas from Norway*, Department of Fisheries and Oceans, International Directorate: Ottawa, 1987

